



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY

2013-2014

MAY 13, 2014

NAPA COUNTY JAIL ANNUAL REVIEW

FINAL REPORT

NAPA COUNTY JAIL ANNUAL REVIEW

I. SUMMARY

As mandated by law, the 2013-2014 Napa County Grand Jury inspected the Napa County Jail, and found the jail to be adequately maintained given the considerable wear and tear on the aging facility. The Grand Jury noted that correctional staff members were professional in both appearance and attitude, and was further impressed by their dedication to duty. The Napa County Jail is one of only two civilian-run county jails in the State of California – all others, with the exception of Madera County, are managed under the authority of the Sheriff. Both the 2006-2007 and the 2010-2011 Grand Juries recommended that the Napa County Board of Supervisors consider returning the management of the jail to the Sheriff. The Board of Supervisors declined, indicating that the Grand Juries had not identified “compelling” reasons for the Board to consider this change.

The 2013-2014 Grand Jury identified three “compelling” issues: the impact of Realignment; the extreme difficulty recruiting and retaining quality personnel; and the inadvisability of structuring the system around one, extraordinary individual – the current Director of Corrections. The Grand Jury recommends that the management of the jail be returned to the Sheriff while retaining the current Director and his staff. The Grand Jury requests that the Board of Supervisors consider this recommendation and implement any changes in the management structure by the end of FY 2015-2016.

II. BACKGROUND

A. Napa County Jail

The Napa County Jail (NCJ) is located in downtown Napa adjacent to the Napa County Superior Court and the Napa County Administrative Offices. The facility was built in 1975 and expanded in 1989 to accommodate a total of 264 male and female detainees and inmates, including those awaiting arraignment or trial, convicted inmates awaiting sentencing, sentenced inmates awaiting transfer to state prison and inmates sentenced to the NCJ. Temporary beds can be added to house a maximum of 305 inmates when the census exceeds 264. The Napa County Department of Corrections (NCDC) has a contract (renewed semi-annually) with the California Forensic Medical Group (CFMG) based in Monterey, California, to

provide medical, psychiatric and dental services to the inmates. There is a nurse on duty 24 hours a day. Mental health personnel are provided by Napa County Health and Human Services (HHS). NCDC fully funds these three forensic mental health counselor positions. One position is currently unfilled. HHS Emergency Response (Crisis) is available 24/7 to respond to after-hours mental health emergencies, such as “5150” assessments for dangerousness to self and/or others.

The NCJ is managed by the Director of Corrections under the authority of the Napa County Board of Supervisors (BOS) with a budget of \$14,411,890 for FY 2013-2014. The NCJ is one of two county jails in the State of California that is operated by a civilian agency. In all other counties, with the exception of Madera, the County Sheriff runs the jails. The NCDC staff is responsible for the coordination of all programs and services related to the institutional punishment, care, treatment and rehabilitation of inmates, including intake screening, classification and sentencing alternatives (such as work furlough). The NCJ is inspected annually to ensure that all guidelines and mandates for jail operations are met, as specified in Penal Code (PC) Title 15 and Title 24. A Sheriff’s Lieutenant is permanently assigned to the jail staff. This position was created in 2009 to bring NCDC into compliance with PC Sections 830.1 and 831.5(d), which state, “...that 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.” The Lieutenant serves as NCDC liaison to other criminal justice agencies, provides training assistance, supervises strip searches and use of force procedures, conducts internal affairs investigations, and works closely with the NCJ management staff to identify and address security issues.

B. Realignment

In 2011, Governor Brown signed into law AB 109 and AB 177, the Public Safety Realignment Act, referred to as “Realignment.” Realignment shifted the burden for incarceration, monitoring and rehabilitation of offenders convicted of “non-non-non” felonies to the counties. The legislation specifically states:

Inmates will complete their sentences in state prisons and trickle into county post-release community supervision services. After October 1, 2011, all new offenders who are non-violent, non-

serious and non-sex offenders must go to county jails.

Felony offenders, previously supervised by State Parole Officers, are now monitored by the County Probation Department. The impact of Realignment on county jails is the addition of more criminally sophisticated felons, serving considerably longer terms, to overcrowded local facilities not designed for long-term incarceration.

II. METHODOLOGY

As mandated by law, the Grand Jury must complete an annual physical inspection of all jail facilities within the county. The 2013-2014 Grand Jury conducted an inspection of the Napa County Jail on October 7, 2013. Following the physical inspection, the Grand Jury conducted interviews and reviewed documents and websites relevant to the investigation.

A. Napa County Jail Physical Inspection

The Grand Jury toured the following components of the facility:

- Initial Booking Area
- Holding Cells
- Court Holding Area
- Sally Port Entry
- General Population
- Maximum Security
- Administrative Segregation
- Work Furlough Accommodations
- Visitation Area
- Kitchen
- Laundry
- Nurse's Station/Medical Unit
- Control Room
- Exercise Yard

B. Interviews

The Grand Jury interviewed personnel from the following departments/organizations:

- Napa County Department of Corrections (NCDC)
- Napa District Attorney (DA)
- Napa County Office of Sheriff-Coroner
- Napa County Health & Human Services Agency – Mental Health Division (HHS)
- Napa County Probation Department

C. Documents/Websites

The Grand Jury reviewed relevant documents and websites, including the following:

- Napa County Grand Jury Reports (NCGJ): 2006-2007, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013
- Sheriff's Response to the 2006-2007 NCGJ Final Report
- Sheriff's Response to the 2010-2011 NCGJ Final Report
- NCDC Response to the Grand Jury Report Fiscal Year 2010-2011
- Corrections Standards Authority 2010-2012 Biennial Inspection PC§6031, by the Board of State and Community Corrections (BSCC)
- NCDC Policies & Procedures
- Penal Code Section 831.5 re custodial officer
- Government Code, Title 3, Division 2, Part 3, Chapter 2
- *CA Public Safety Realignment: The Reality*, by Don Douglass, President of the Ventura County Professional Peace Officers' Association
- *Prisons and Jails are Main Source of CA's Psychiatric Housing*, PUBLICCEO, 4/16/14
- Articles *re* Community Corrections Partnership and Napa County Mental Health Court
- Newspaper articles from the Sacramento Bee, Napa Register, and Yountville Sun
- County of Napa Public Safety Realignment and Post Release Community Supervision 2011 Implementation Plan

- County of Napa 2013 Public Safety Realignment and Post Release Community Supervision 2011 Implementation Plan
- Website: <http://bi.com> (BI Incorporated)
- Website: <http://www.countyofnapa.org>

III. DISCUSSION

A. Physical Inspection of NCJ

The 2013-2014 Grand Jury inspected the NCJ on October 7, 2013 and found the detention center to be reasonably well maintained, given the age and significant wear and tear on the facility. Correctional staff was professional in both appearance and attitude. The Grand Jury was advised that a new control room was under construction with a tentative completion date in 2015. A plan to remodel the current work furlough area to increase the number of single-cells was imminent. By the time of this report, the County had contracted with a construction company to begin the remodel. In-cell video visitation had been activated, significantly decreasing movement of inmates from housing units to the “old” visitation area.

B. Realignment

The NCJ was designed to house pre-trial defendants and persons convicted of misdemeanors and/or lesser felonies serving short-term sentences (generally up to one year). As a consequence of Realignment, the NCJ has seen an increase in more criminally sophisticated inmates, serving significantly longer sentences in a deteriorating facility where they cannot “program” -- participate in activities that will benefit them when they are released into the community -- or exercise as in a State Prison setting. Don Douglass, President of the Ventura County Professional Peace Officers’ Association, in his article, *CA Public Safety Realignment: The Reality*, stated the following regarding the criminality of the “non-serious, non-violent, non-sex registrant” felons now being sentenced to local time:

Unfortunately, the non-non-nons were mischaracterized to the public by politicians and many in the media. We soon learned that CDCR [California Department of Corrections and Rehabilitation] officials identified the non-non-nons according to

their latest offense leading to their most recent incarceration back into the state prison system. The reality is that a high percentage of the non-nons are career criminals, . . . higher-risk, more sophisticated and more violent than ever before.

During the past year, the NCJ has seen an increase in contraband drugs and weapons, and a 400% increase in assaults (from 8 to 40). This figure is believed to be an underestimate, as many assaults on staff go unreported. The NCJ has also seen an increase in the already substantial number of inmates with mental health issues. Mental health counselors recognize that former State Prison felons are accustomed to readily receiving prescription medication and are often seen as drug-seeking in jail. This group is also accustomed to the availability of mental health services. To this end, NCDC has allocated AB109 (Realignment) funds from the State to fund a third forensic mental health counselor position. Unfortunately, despite recruitment efforts, this position has not yet been filled.

Many of the problems consequent to Realignment will be solved with the building of a new, state-of-the-art jail facility; however, completion of the new jail is optimistically scheduled for no earlier than 2018.

C. Staff Recruitment

The Grand Jury has identified staff recruitment and retention as a significant issue of concern. The current staffing consists of 98 full-time-equivalent employees (81 uniform positions and 17 non-uniform positions). There are currently nine staff vacancies at the NCJ, with three pending retirements this year, and three more in 2015. Some staff members are in various stages of testing and background review with other law enforcement agencies that can offer them peace-officer status and safety retirements. Public safety employees – including police officers, sheriff’s deputies and firefighters – are able to retire at an earlier age than non-safety personnel and receive a larger percentage of their salaries as pension. Injuries have further reduced the availability of corrections staff. Recruitment of new Correctional Officers (COs) has proven extremely difficult. Management has had a hard time getting prospective employees to come in and test, as they are frequently lured away by other agencies that can offer better hours, better pay and peace officer status. Currently, when COs are absent due to illness or injury, overtime is utilized and Probation Officers and Juvenile Hall Counselors replace correctional staff in less critical areas while jail staff is transferred into “high

traffic” areas. Juvenile Hall Counselors and Probation Officers have peace officer status.

D. Organizational Structure of the NCJ

The 2006-2007 and the 2010-2011 Grand Juries recommended that the BOS consider returning the management of the NCJ to the Sheriff. In 1975, the NCDC was created by the BOS pursuant to section 23013 of the California Government Code. The BOS adopted a resolution authorizing the NCDC to have jurisdiction over the operation of the Napa County Jail facility. In doing so, Napa County opted to divest the Sheriff of responsibility for jail management by establishing a separate Department of Corrections and hiring a Director who reported directly to the BOS. The reasons given for this decision were as follows:

- The BOS would retain budgetary control of the jail instead of placing this responsibility with an elected official.
- The use of sworn law enforcement officers for custodial functions was thought to be inefficient and a costly use of resources.
- There was a lack of career path and promotion prospects for the correctional officers when under the jurisdiction of the Sheriff.
- Different skills and training in the correctional process were thought to be needed as stated in a memorandum dated May 22, 1975 to the Napa County Criminal Justice Planning Committee from the County Administrator.

Eighteen years later, in 1993, the California State Legislature determined that the Sheriffs’ departments throughout the state should provide county jail management. The people of California enacted SB911, an amendment to section 26605 of the Government Code which provided: “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...” Three counties, Napa, Madera and Santa Clara, were grandfathered under this exception. Today, only Napa and Madera Counties have civilian-run jails. Santa Clara returned the control of its jail to the Sheriff several years ago.

The 2006-2007 Grand Jury identified seven potential advantages to reuniting Corrections with the Sheriff's Department: (1) Greater Accountability; (2) Improved Response to County Emergencies; (3) Efficiency; (4) Career Options; (5) Increased Collaboration; (6) Enhanced Support and Advocacy at the State Level and (7) Statutory Preference. After consideration of the Grand Jury's findings and recommendations, the then-Sheriff, expressed agreement; however, the then-Director of Corrections identified advantages to retaining BOS control over the jail. The 2010-2011 Grand Jury again proposed that the BOS consider returning management of the NCJ to the Sheriff. Both the current Director of Corrections and the BOS responded that the 2010-2011 Grand Jury had not presented any new information that would warrant a further examination of the issue, and stated, "Absent some compelling issue – which has not been identified – we see no reason to consider a change in management structure at this time."

E. Conclusion

The 2013-2014 Grand Jury believes that several "compelling issues" have arisen since 2011 that warrant another look at returning the NCJ to the management of the Sheriff. These areas of concern are as follows:

- The impact of Realignment;
- The extreme difficulty recruiting and retaining quality personnel;
- The inadvisability of structuring a system around one, extraordinary individual.

Since the inception of Realignment, the NCJ population has been changed by the addition of criminally sophisticated felons serving considerably longer sentences to a facility designed to house misdemeanants for up to one year. Many of these individuals will be serving a number of years incarcerated in the jail, where their freedom of movement is significantly restricted. Inmates do not have access to many of the "amenities" available in the state prison system, such as readily available face-to-face psychiatric/mental health services, more spacious exercise yards and vocational and educational programs that could benefit them upon release. The incidence of contraband weapons and drugs has increased, as has the number of assaults. An assault on a peace officer is a felony; however, a simple assault on a Correctional Officer – a civilian – can be charged either as a felony or as a misdemeanor, and is often not perceived by the aggressor as carrying the consequences of an assault upon a peace officer. Correctional staff has noted that recent assaults are most often committed by non-Realignment inmates trying to

impress their more criminally sophisticated cohorts. As the new jail is not expected to open until 2018 (at the earliest), the NCJ is facing at least four years of managing a mix of bored Realignment felons, “wannabe” misdemeanants, and vulnerable, frequently unmedicated, mentally ill inmates in a challenging environment.

Recruitment and retention of correctional officers is a significant issue facing NCDC. Correctional Officers or “custodial officers,” as they are identified in PC 831.5, are civilian or public officers, not peace officers. As such, they are not afforded the same authorities or protections as police officers, deputy sheriffs, or state prison guards. They are not authorized to carry weapons on or off the job, and they are not eligible for safety retirements. Correctional Officers receive an initial six weeks of training, as compared to California Department of Corrections (CDC) prison guards who attend a sixteen-week academy and police and deputy sheriff trainees, who attend a six-month academy, eighteen weeks of field training and one year of probationary status after completing the Field Training Officer (FTO) program. The NCJ COs work long hours in an extremely challenging environment, and they receive significantly less pay and benefits than their counterpart peace officers. Qualified applicants are “lured away” by law enforcement agencies that can offer a better employment package. Similarly, some NCJ COs are considering the advantages of applying for employment to local law enforcement agencies.

During the past eighteen years, NCDC has had seven Directors. The current Director was hired by the BOS in 2008. During his tenure, he has initiated a significant number of innovative programs and established positive changes within the NCJ. The Grand Jury recognizes that this Director is an extraordinarily talented individual with extensive experience in Corrections, who is a great asset to the NCDC and clearly the right person for the job during the challenging times of Realignment. The Grand Jury is concerned, however, given the frequent transition in top management during the years preceding the current Director, that when he ultimately leaves his post there will be a hole too large to fill – that it is unwise to build a system upon the unique skills and talents of one person. Senior members of the Sheriff’s Department have the skills and experience in law enforcement to be able to take over the running of the jail until a new Director could be recruited.

The 2013-2014 Grand Jury proposes that the above-identified issues might be addressed by **retaining** the Director and his staff under the auspices of the Sheriff rather than the BOS. The Grand Jury wants to be clear that it is **not**

suggesting that Sheriff's deputies replace the current correctional staff, a move that could significantly impact the budget. This Grand Jury agrees with the 2006-2007 Grand Jury that stated the following in their Final Report:

By consolidation of the Departments the county has the opportunity to consider whether the career paths should be kept the same, or modified for crossover potential. The model used throughout most of the State is a dual career path, one for sworn deputies and one for correctional officers. Typically, correctional officers are more interested in providing services for inmates consistent with the goals and objectives of a correctional program. Providing a dual career path enables the county to staff the jail without incurring the extended training, salary expense, enhanced retirement and workers compensation benefits of sworn law enforcement deputies.

The opportunity for limited peace officer status of all the NCJ COs could decrease the rising number of assaults on staff because the consequences for aggression could now be substantial. Recruitment and retention would be less of an issue as competing agencies would no longer have the advantage of offering significantly better employment packages. As a consequence, the NCJ could retain a full complement of staff without the need to frequently use overtime or to fill in absences with Probation Officers or Juvenile Hall Counselors.

IV. FINDINGS

The 2013-2014 Grand Jury finds the following:

- F1.** Realignment has changed the composition of the NCJ population and the dynamics between inmates and correctional staff by the addition of more criminally sophisticated felons, serving longer sentences in a facility designed for shorter-term stays.
- F2.** Recruitment and retention of correctional staff is a significant problem for NCDC.

F3. The Napa County Jail is one of two remaining county jails in California managed by a Director of Corrections under the authority of the Board of Supervisors rather than the Sheriff.

V. RECOMMENDATIONS

R1. The 2013-2014 Grand Jury has identified three “compelling issues” in favor of returning the management of the Napa County Jail facility to the Napa County Sheriff and requests that the Board of Supervisors reconsider its prior position on the management structure of the jail.

R2. The Grand Jury requests that the Board of Supervisors implement any changes in management structure by the end of FY 2015-2016.

VI. REQUEST FOR RESPONSES

The 2013-2014 Grand Jury requests responses from the following:

- Napa County Board of Supervisors: **R1, R2**

It is requested that each person responding to the foregoing recommendation certify above his or her signature that the responses conform to the requirements of Section 933.05 of the Penal Code.

VII. COMMENDATION

The 2013-2014 Grand Jury commends the Director of Corrections and his staff for their dedication and professionalism in the increasingly challenging environment of the NCJ.

Approved in regular session on May 6, 2014

/s/

Alan Galbraith
Foreperson, 2013-2014 Grand Jury