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SANTA CLARA COUNTY

Supervisor to bring jail oversight plan to board

Proposal to fix poor jail conditions via civilian oversight panel may gain traction Tuesday

**By Jason Green
and Eric Kurhi**
Staff Writers

SAN JOSE » More than two years after three guards beat an inmate to death in the Santa Clara County jail — and after scores of meetings on how to best reform the conditions that made it pos-

sible to happen — a proposal to create a civilian oversight panel is scheduled to go before the Board of Supervisors on Tuesday.

The item is being brought forth by Supervisor Joe Simitian as a means to give the public and the rest of the supervisors an early look at a rough draft — the budgeting policy is being developed

by a committee he helms but he stressed a need for transparency.

“I felt that this issue has not really been highlighted before the full board,” he said, “and frankly it is an issue of enough importance that we want the full board, and the community, engaged at the start of the next part of the process.”

There are two components to the oversight model: One is an independent director who would re-

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The police commission also suggested seizing control of the jails from Santa Clara Sheriff Laurie Smith, center. STAFF FILE PHOTO

Oversight

port to the board of supervisors, the other a citizen watchdog panel that would operate in an advisory capacity. After two meetings during which representatives from various oversight bodies around the United States and beyond presented on their practices, the model the committee is recommending is closest to one used in Los Angeles.

"L.A. was widely held up as a model for good governance," Simitian said. "And the other benefit is it exists within the framework of California law. It made sense to look and see what can we do that has already been road-tested." Ron Hansen of People Acting in Community Together — a jail advocacy group that has been very vocal at meetings on reforms — said "Generally, the proposal is a strong start."

However, he said a key difference that may need to be addressed is that Los Angeles includes some crucial jail services such as health programs — both physical and mental — and facilities services within the sheriff's office. Locally, those programs are outside of the Santa Clara County sheriff's office. "Consequently, oversight of these important services should be made explicit in the proposal," Hansen said, "especially since these areas have been the focus of the majority of inmate complaints and grievances."

The proposal to create an Office of Correction and Law Enforcement Oversight is in line with a key recommendation from the Blue Ribbon Commission on Improving Custody Operations, which was convened in the wake of mentally ill inmate Michael Tyree's murder in 2015. In June, former jail guards Jerreh Lubrin, Matthew Farris and Rafael Rodriguez were convicted of second-degree murder.

It was one of two top recommendations by the commission. In addition to civilian oversight, the commission said leadership of the facilities must be addressed — going as

far as to say the county should seize control of the jails from Sheriff Laurie Smith. There were about 620 more recommendations.

Sheriff Smith made independent civilian oversight a priority in her own list of proposed changes in March 2016 — just before the Blue Ribbon Commission announced its findings. Smith's other stated goals included beefing up training to help guards cope with mentally ill inmates, improving inmate education programs, and increasing minimum qualifications and background checks for prospective guards.

T r a n s f o r m a t i v e change continues to occur throughout our custody facilities with the goal of enacting a more holistic approach toward how we, as a law enforcement entity, safely and humanely manage inmates," she said Thursday. "We look forward to our collaboration with county stakeholders on this important step."

Smith last year proposed sweeping changes to slash the use of excessive force and improve medical

care in Santa Clara County's troubled jails that go far beyond most counties, including the appointment of a civilian board and inspector general to provide permanent independent oversight.

However, former under-sheriff and head of corrections John Hirokawa, who is running to unseat his old boss in 2018, is critical of how much time has passed without additional information.

"This is a deadly serious issue facing our county, but the continued silence over the past 17 months on this topic from Sheriff Laurie Smith is deafening," he said on Friday. "It's time for the Sheriff to either exhibit real leadership on this issue or step aside."

The Office of Correction and Law Enforcement Oversight would be responsible for keeping an eye on the day-to-day operations of the Sheriff's Office and the Department of Corrections, as well as auditing and monitoring investigations into complaints. In addition, the office would field complaints, offer policy analysis and recommendations,

conduct community outreach and provide mediation, according to Simitian.

The proposal also calls for the creation of a citizens panel to ensure public access, engagement and input to the jail oversight process.

Simitian called the proposal a "first draft."

"Getting it right takes great care. We have to keep the public safe and protect their due process rights. We have to keep our officers safe and protect their due process rights. And we have to build and maintain the public's trust in law enforcement, which is in everybody's interest," the supervisor said in an interview.

"This is a first draft, not a final draft," he continued. "This is the basis for discussion."

Both he and colleague Supervisor Cindy Chavez, who is also on the committee that has been working on the draft, used the words "robust, independent, rigorous and transparent" in describing what they expect to in an oversight model.

"Anything short of that

means we'll have a less just and more costly system, in terms of human life and in tax dollars," Chavez said, referring to the high cost of recidivism and the importance of getting people rehabilitated to function when they are released.

Former San Jose Independent Police Auditor Laurie Cordell said she likes what she sees so far.

"My hope is that it will be enacted and this will bring just a new day to the operation of the jails of Santa Clara County," said Cordell, who also chaired the blue ribbon commission. "This is bold. It's never happened before."

Cordell said she believes independent civilian oversight would have saved Tyree's life and those of other inmates who have died.

"It's a long time coming and I prefer not to look back now" she said. "I want to look forward to a day when we can be proud of our jails because right now there's not a lot to be proud of."

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Editorial

Speak out now on Santa Clara jail oversight

It's time to implement civilian oversight of the Santa Clara County Sheriff's Department and the jails it runs. Two years ago in August, mentally ill inmate Michael Tyree was brutally murdered by guards in the county's main jail.

This past June, three former guards were convicted in Tyree's beating death. In the interim, Sheriff Laurie Smith and county supervisors have taken steps to improve security in the jails, handling of the mentally ill and other failed policies and procedures that came to light only because of the tragedy.

But oversight was at the heart of the voluminous recommendations made by the county-appointed Blue Ribbon Commission on the jails in the months following Tyree's murder. Without it, the improvements that were quickly made after appalling jail conditions came to light could be abandoned as public attention shifts or an economic downturn creates funding issues.

Indeed, the improvements could already be eroding, for all we know. It's time to get a watchdog system in place.

Supervisor Joe Simitian chairs the Finance and Government Operations Com-

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mittee, on which Supervisor Cindy Chavez also serves. It has been studying how to implement oversight based on recommendations by a number of community groups but primarily the Blue Ribbon Commission led by retired Superior Court Judge LaDoris Cordell, who had spent five years building the effectiveness of San Jose's Independent Police Auditor office.

Today the Board of Supervisors will discuss Simitian's first draft of an ordinance. It's unusual to take a first draft to the full board for preliminary review, but Simitian had a reason: Besides getting early board feedback, he wanted to be sure the broader public knew this key step of actually structuring the oversight was under way.

If you want to influence it, now is the time. Watch the agenda of Simitian's committee, where work on the ordinance will continue.

The essence of the oversight plan is an Office of Correction and Law Enforcement Oversight, with auditing and other powers to monitor the sheriff's department and the jail, including taking complaints and making policy recommendations.

Its director would report directly to the board of supervisors, not the sheriff's department.

The plan also calls for a citizen watchdog committee to ensure continued transparency and public engagement. The Blue Ribbon Commission had unleashed a torrent of pent-up complaints, observations and outrages that nobody had listened to before.

Simitian's committee has taken this work seriously, seeking information and testimony from outside experts on successful programs. The draft is based on Los Angeles' system, which is seen as a model program.

Cordell said the draft ordinance looked good for a start. Representatives of some community groups say the same but no doubt will suggest tweaks.

That's the point. If you were caught up in the initial anger about Michael Tyree's awful death two years ago but have moved on to other things — now is the time to reconnect.

KQED

October 10, 2019

Santa Clara Sheriff to Get Long-Awaited Civilian Oversight

By Julie Small
Oct 10, 2019



The Santa Clara County Sheriff's Office is set to get long-awaited civilian oversight, one of many reforms spurred by the beating death of Michael Tyree, an inmate in the county's Main Jail. *(Lisa Pickoff-White/KQED)*

More than four years since the beating death of a mentally ill inmate spurred widespread reforms, the Santa Clara County Sheriff's Office is moving forward to get a new, long-awaited civilian oversight body.

The county's Board of Supervisors voted unanimously Tuesday to put the Los Angeles-based OIR Group in charge of the new Office of Correction and Law Enforcement Monitoring, which will have the power to audit sheriff's operations, inmate complaints and internal investigations.

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'We're finally ready to deliver on the promise of civilian oversight.'
-Joe Simitian, Santa Clara County Board of Supervisors president

“The beating death in our jail highlighted the need for monitoring on both the correctional side and the patrol side of operations,” Santa Clara County Board President Joe Simitian said in a written statement.

He acknowledged that establishing the new office “took longer than I hoped.”

“Meaningful civilian monitoring is an essential component of the reform effort that has been under way,” Simitian said. “We’re finally ready to deliver on the promise of civilian oversight.”

The new civilian oversight office will open pending a final agreement between the county and OIR Group, which applied for the role.

Michael Tyree died Aug. 27, 2015, shortly after three deputies entered his cell. The 31-year-old was diagnosed with bipolar disorder and addiction and was being held at the Main Jail in San Jose awaiting transfer to a treatment facility.

A sheriff’s investigation found that inmates in the same housing unit reported hearing Tyree scream for several minutes and also heard, "sounds of thumping, wall banging and what sounded like blows on a person's body."

The medical examiner who conducted the autopsy on Tyree’s body found that he died from blunt force trauma that caused his spleen to rupture.

The three deputies last seen with Tyree were arrested just days after his murder.

A jury convicted each of them of second degree murder, and they were sentenced to 15 years to life in state prison.

The brutal beating death also prompted county officials to establish a temporary commission to investigate and improve conditions for inmates.

Investigators for the commission surveyed nearly a thousand inmates and over 30 jail staff and reported widespread abuse by officers, lax oversight and a disciplinary system that failed to punish serious misconduct.

Establishing independent oversight of the Sheriff’s Office was one of more than 100 policy recommendations the commission made the year after Tyree’s death.

“It is my hope that the work of the OIR will be transparent, with regular and detailed reports to the Board of Supervisors and to the general public,” retired Santa Clara County Judge LaDoris Cordell, who chaired the commission, said in an emailed response.

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She wrote that the new civilian oversight office should include people of color and be based in Santa Clara County.

“Long-distance monitoring will not work,” Cordell wrote.

"My office will support the work of the independent monitor," said Sheriff Laurie Smith in a written statement. "My jail reform plan included an oversight component and I believe this additional level of transparency into the good work of our sworn and professional staff is a step in the right direction."

In a press release, Todd Kendrick, the President of the Santa Clara County Peace Officers Association wrote that the union "has been and will continue to support the reforms and changes necessary for the Sheriff's Office, while ensuring our members have the best working conditions possible."

Kendrick urged the OIR Group to address the needs of a growing number of inmates with mental illness. He said deputies working in the jails have been "forced" to become "mental health first responders."

October 20, 2020

SANTA CLARA COUNTY SHERIFF'S OFFICE

Pressure mounts over watchdog access

Agreement still elusive over giving law enforcement monitor access to investigation and personnel files

By Robert Saionga and Fiona Kellner
Staff writers

More than two years after county officials agreed to establish a civilian watchdog to audit how the Santa Clara County Sheriff's Office runs the county jails and its police enforcement, the oversight plan has yet to get off

the ground. That's largely due to ongoing and unresolved closed-door negotiations over an agreement compelling the sheriff's office to give access to investigatory and personnel information to the Office of County Law Enforcement Monitoring, which is operated by the civilian OIR Group. In remarks offered to the county Board

of Supervisors over the past few months, updates on the talks have used the terms "hopeful" and "optimistic" but also "impasse" and "step backward."

But the exact hangup in the talks has not been publicly disclosed, with the involved parties all voicing wariness of revealing details that could derail the tenacious dialogue.

OIR co-founder Michael Gennaco contends the sheriff's office has let the agreement languish unsigned since June, leaving his

office unable to substantively audit key incidents. Those cases include a May shooting during the George Floyd protests in downtown San Jose when a deputy fired a handgun at a vehicle that allegedly hit two protesters, and inmate deaths recorded this year.

"This has been a challenge, and it continues to be," Gennaco said. "We need information."

That information includes documents like personnel files, internal investigations into in-

mate deaths, jail recordings and complaints — none of which OIR Group can access before the agreement has been signed.

As the stalemate languishes, Gennaco's office could be bestowed some additional statutory authority from the state in the form of Assembly Bill 1185, which was signed by Gov. Gavin Newsom last month. The bill notably gives subpoena power to sheriff oversight bodies, but how that might apply in the future

Audit

in Santa Clara County remains to be seen.

County Supervisor Joseph Simitian, who with current board President Cindy Chavez spearheaded the creation of the oversight role more than two years ago, shared in the frustration with getting the monitoring office working in earnest. Tuesday, the supervisors will take up a resolution "urging" that an agreement be reached by Nov. 3.

"Until and unless the sheriff agrees to make the documents available, the newly appointed civilian monitor will be significantly stymied in efforts to provide oversight," Si-

mitian said in an interview with this news organization. "Our monitor can't make good policy recommendations or observations about how well the system is, or isn't working, without a look inside, and that look inside isn't allowed."

County Counsel James Williams said information-sharing agreements between the monitor and other county agencies that interact with the sheriff's office and jails, like custody health and his own office, have been reached, but affirmed that an agreement with the sheriff's office itself has proven elusive. But he contends that walking a fine line between access and abiding by protections for police records has been a particular challenge in Santa Clara County.

"The ordinance that created OCLEM includes strong protections to ensure anything shared remains confidential, in part to help facilitate getting access to a broader range of materials," Williams said, adding that he shares a sense of urgency with others involved: "We're aware of the timing, and we're aware of what's going on. It's going to have to get done."

The sheriff's office did not respond to requests for comment by press time. In response to previous inquiries, the department has referred this news organization to Williams' office. The sheriff's office has been known to spar with other county agencies over records access. Last year, it clashed with the county administration over its level of control of criminal database information shape up conditions in the

that stalled the implementation of a jail-management system, and later with the District Attorney's Office on a separate issue of giving prosecutors access to jail-inmate call recordings.

Simitian pushed for civilian oversight over the sheriff's office after the 2014 police shooting of Michael Brown in Ferguson, Missouri. That discussion got a significant momentum boost following the 2015 killing of Michael Lyree, a mentally ill Santa Clara County inmate whose beating death led to murder convictions for three jail deputies.

A board-appointed blue ribbon commission recommended scores of jail reforms, which paralleled a class-action lawsuit filed by the Prison Law Office to shape up conditions in the

county jails. One of the primary reform ideas was the establishment of civilian oversight.

The position was created in 2018, and the OIR firm was selected in fall 2019. Five years after Lyree's death, four years after the blue-ribbon panel recommended oversight, two years after that oversight was created, and most recently after the national police-reform movement galvanized by the death of George Floyd, Simitian contends there is no more time to waste.

"I always worry at a time like this that the moment passes, people forget and the sense of urgency is no longer there," he said. In his more than 20 years auditing police and sheriff's departments up and down the West coast — including

departments in Palo Alto and Vallejo — Gennaco said he has never struggled to get basic departmental materials as he has in Santa Clara County.

The auditor welcomed Simitian's Tuesday resolution but declined to share the details of several phone conversations with the sheriff's office since late August, citing the need for privacy during negotiations. But if they fail to come to an agreement before Nov. 3, Gennaco plans to make those "sticking points" public through a report to the board.

"Til it's over, it's not over — and even then it's not over," Gennaco said. "But at some point, it's important to bring the public and the board up to speed on where we are, or where we're not."