

Santa Clara County

**OFFICE OF CORRECTION AND LAW
ENFORCEMENT MONITORING**

Report on Audit of Jail Reform
Recommendations

Interim Report #4
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OIR GROUP

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Introduction and Background

Beginning in 2016, 15 separate entities issued recommendations for reform of the County's jails. A total of 623 recommendations (referred to as "Master List Recommendations") were catalogued as part of these various review processes. Several years ago, the Finance and Government Operations Committee received numerous reports from the Office of the County Executive that grouped all the recommendations by subject area and created a list of 80 Summarized Recommendations. Despite efforts by County departments over the years, verifying implementation of these recommendations has proven to be a challenging task.

On December 15, 2020, this Board directed OCLEM to take on the role of auditor of these Jail Reforms Recommendations. This is our fourth report on those efforts. We review recommendations as the Jail Reforms Workgroup presents them to us as completed and ready to be audited. Our previous three reports addressed a total of 13 Summarized Recommendations and 77 Master List Recommendations. This report covers an additional five Summarized Recommendations, encompassing 30 Master List Recommendations.

The set of recommendations covered in this report address document control issues, phone services for those in custody, policies surrounding the use of surveillance video, and programming offered to incarcerated individuals. With one caveat – relating to the ongoing monitoring of efforts to make programming more available to all those in custody – we find these recommendations have been implemented. With respect to the recommendation related to programming, we recognize that providing quality programming opportunities to all those in custody remains a challenge. However, in comparison to the baseline level of programming available in 2016, we believe that sufficient, meaningful progress has been made to consider these recommendations implemented. To help ensure continued improvement and expansion of programming opportunities for all inmates, OCLEM, together with the Community Correction and Law Enforcement Monitoring Committee, will continue to play a role in the monitoring and encouraging programming efforts.

We appreciate the assistance and cooperation of the County Executive's Office in coordinating and facilitating the production of documents and other responses to our audit requests. We are also grateful for the cooperation of the Custody Bureau and

Custody Health Services in providing us the necessary documentation and access to personnel necessary to complete this review. Both were given a draft version of this report and opportunity to provide feedback or further clarification. We look forward to our ongoing work and collaboration to complete our audit of the remaining Recommendations.

Audit Findings

Each of the audited recommendations is listed below, by both Summarized Recommendation and its associated Master List Recommendations. OCLEM’s findings regarding each recommendation follows.

Recommendation		Description	OCLEM Finding
Summarized: CLS 6		The Office of the Sheriff should use a document control method to ensure any interim changes to existing policies and procedures are explicitly tied to the policies and procedures they affect.	Implemented
Master List	530	The Office of the Sheriff should use a document control method to ensure any interim changes to existing policies and procedures are explicitly tied to the policies and procedures they affect.	Implemented

The County has contracted with Lexipol LLC to develop and manage policies for the Sheriff’s Office. The contract scope includes provision of consistent, timely, and secure access to the Supplemental Publication Service that will store Sheriff’s Office procedures, guidelines, general orders, training guides or secondary policy manuals. The Supplemental Publication Service will: 1) electronically link department-specific procedural or supplemental content to the policy manual; 2) provide electronic issuance and tracking for stored documents; 3) allow the Sheriff’s Office to create training bulletins for stored content; and 4) store the Sheriff’s Office standard operating guidelines, procedures, general orders, or field guides. The Lexipol system will store every version of each policy to preserve a historical record of policies as they are revised over time.

This recommendation has been implemented.

Recommendation		Description	OCLEM Finding
Summarized: ISV 1		With regard to inmate phones, ensure that the costs of phone calls are reasonable and review the feasibility of providing free phone calls. Examine the number of phones available to inmates in each housing unit.	Implemented
Master List	99	The IWFC is to conduct a feasibility study as to whether or not inmates could have one free phone call per week to family and friends.	Implemented
	163	Assure that Court orders that require the inmate to make a phone call for treatment assessments are immediately complied with and do not require a written request or grievance by the inmate. Provide this access for all inmates regardless of classification during regular work hours.	Implemented
	164	Install more inmate phones in housing areas.	Implemented
	335	Ensure that prices of phone calls by inmates to their families, legal counsel, chaplains, advocates, and friends facilitate effective communication and expeditious processing of cases, and are based on legitimate costs that prevent vendor profiteering.	no action by County necessary as a result of CPUC action

99: The IWFC is to conduct a feasibility study as to whether or not inmates could have one free phone call per week to family and friends.

In April 2020, in response to the COVID-19 pandemic, the Board approved a pilot program to provide all inmates with seven free 15-minute phone calls per week. This was, in part, to make up for the lack of visitation allowed. This program was extended in June 2022 through June 2024. The Office of the Sheriff will consider extending the free phone call program in June 2024. Additionally, in August 2021, the California Public Utilities Commission approved a cap of \$.07 per minute for inmate phone calls. Prior to 2014, Santa Clara County jail inmates paid an average of \$1.36 per minute for calls. In 2014, the cost was reduced as a result of federal regulation changes to an average of \$.21 per minute. So regardless of what happens with the free phone call program beyond 2024, inmates will be charged a much more reasonable rate for this service.

163: Assure that Court orders that require the inmate to make a phone call for treatment assessments are immediately complied with and do not require a written request or grievance by the inmate. Provide this access for all inmates regardless of classification during regular work hours.

Current policy (Department of Correction Policy Number 7.11) provides that all court orders directing that action be taken by the Sheriff's Office are to be routed through Administrative Booking, which will complete a "Court Order Compliance Form as soon as practical, but no later than one (1) hour after receipt." The form and a copy of the court order will be sent to the appropriate facility for compliance, and the original court order is to be sent to the Facility Commander "prior to the end of the shift on which the order was received." The policy further provides: "Each Division Commander will ensure that court orders, compliance forms, proof of service documents and/or registration forms are executed in a timely manner, and the completed paperwork is returned to the Administrative Booking Unit."

The recommendation calls for "immediate" compliance. We find the current policy – which requires court orders to be forwarded to the affected jails within one hour of receipt by Administrative Booking with follow-up by a Division Commander to ensure compliance – to be sufficient to comply with the spirit of this recommendation.

164: Install more inmate phones in housing areas.

Main Jail has installed additional inmate phones in housing units on the 6th and 7th floor. Moreover, the inmate tablets which are widely available at both the Main Jail and Elmwood facilities give those in custody the ability to make phone calls even inside their cells, although we have been advised that there have been connectivity issues in some parts of the jails. This recommendation has been implemented.

335: Ensure that prices of phone calls by inmates to their families, legal counsel, chaplains, advocates, and friends facilitate effective communication and expeditious processing of cases, and are based on legitimate costs that prevent vendor profiteering.

On August 19, 2021, the California Public Utilities Commission (CPUC), in its ongoing efforts to ensure affordable telecommunications services for all Californians, decreased the high rates and fees that financially burden incarcerated people, their families, and others that provide them with support, impeding their ability to communicate. CPUC imposed a per-minute cap of seven cents (\$0.07) for all incarcerated person calling services operating within California. As a result of the CPUC action, this recommendation requires no further action.

Recommendation		Description	OCLEM Finding
Summarized: JAF 2		Increase and modernize the video surveillance system throughout the jail facilities. Develop policies and procedures for reviewing and storing the video records, and consider process for review by correctional staff and the public.	Implemented
Master List	160	The Sheriff's Department or other entity that may be in charge of jail operations, in collaboration with community stakeholders, should develop a best-practices protocol for the operation of the cameras installed in the jails, which protocol should be made available to the public via the Department's website. The protocol must include procedures for storage of the footage and for access to the footage by non-Department members.	Implemented
	161	Place cameras in all elevators.	Implemented
	323	Ensure HD digital cameras are placed throughout the facility and operated legally and consistently with best practices: Cameras in jail visiting areas; Complete ("blanket") coverage of jail facilities, no blind spots; Complete ("blanket") coverage of jail facilities, no blind spots; Footage stored for 24 months.	Implemented
	324	Implement cameras with a policy of "write, review, amend," whereby correctional officers can view footage after they write up standard reports and can amend their reports if they see something they missed. However, review of footage would be halted during any use of force investigation, and footage would only be made available to the investigator.	Implemented
	364	Increase and modernize the video camera surveillance system throughout custody facilities.	Implemented

160: The Sheriff's Department or other entity that may be in charge of jail operations, in collaboration with community stakeholders, should develop a best-practices protocol for the operation of the cameras installed in the jails, which protocol should be made available to the public via the Department's website. The protocol must include procedures for storage of the footage and for access to the footage by non-Department members.

This Board has approved a Surveillance Use Policy for the facility cameras which outlines how data will be collected and stored as well as authorized and unauthorized uses for the data collected. It also outlines who within and outside Sheriff's Office will

be allowed to access data. This information was presented and considered during a public meeting of this Board. The Sheriff's Office provides an annual report regarding compliance with the Surveillance Use Policy that is presented during a public meeting. These reports and Sheriff's Office policy are available on the County website.

161: Place cameras in all elevators.

This recommendation has been implemented.

323: Ensure HD digital cameras are placed throughout the facility and operated legally and consistently with best practices: Cameras in jail visiting areas; Complete ("blanket") coverage of jail facilities, no blind spots; Complete ("blanket") coverage of jail facilities, no blind spots; Footage stored for 24 months.

In February 2017, the Board of Supervisors approved an Agreement to install cameras in the jails, as overseen by the County's Facilities and Fleet Department. Since that time, the Sheriff's Office has enhanced the system when needed to cover blind spots as they have been identified, although this is necessarily a work in progress. This recommendation has been implemented.

324: Implement cameras with a policy of "write, review, amend," whereby correctional officers can view footage after they write up standard reports and can amend their reports if they see something they missed. However, review of footage would be halted during any use of force investigation, and footage would only be made available to the investigator.

The Custody Bureau's new policy on Use of Force Reporting, Investigation, and Review – effective August 23, 2022 – includes a new protocol for reviewing video footage which is largely in line with this recommendation. The new language states:

Staff shall not review BWC or overhead video before submitting their initial written report. Staff are authorized to review BWC or overhead video after preparing their initial report. Staff who review video after submitting their original report, and subsequently discover discrepancies between the original report and the video, shall submit a second report for the same incident. Whether an adverse inference should be drawn from an amendment or supplement will depend upon the facts and circumstances in

each case. The Office of the Sheriff will not assume an adverse inference when staff amend or supplement their reports if a video review prompts further recollection of incident details.

The recent revisions to the Use of Force Policy are part of a collaborative effort with counsel for plaintiffs to meet the requirements of the consent decree.

Beyond the language incorporated in the recently revised policy, the recommendation states the review of video footage should be halted during a use of force investigation, with the investigator controlling access. The Sheriff’s Office disagrees with this part of the recommendation, contending – with the agreement of counsel for plaintiffs in the consent decree – that there is no benefit to denying staff the opportunity to view the BWC video once their initial report has been submitted and the ability for staff to submit a supplemental report in addition to their initial report will provide the investigators with a more complete picture of the incident.

OCLEM agrees that the current policy fulfills the goals of this recommendation and considers this recommendation implemented. Indeed, the Sheriff’s Office should be commended for implementing the new policy requiring staff to write reports prior to viewing body-worn camera footage. It is a position we frequently advocate, but not all agencies have been willing to adopt.

364: Increase and modernize the video camera surveillance system throughout custody facilities.

In February 2017, the Board of Supervisors approved an Agreement to install cameras in the jails, as overseen by the County’s Facilities and Fleet Department. Since that time, the Sheriff’s Office has enhanced the system when needed to cover blind spots as they have been identified. This recommendation has been implemented.

Recommendation	Description	OCLEM Finding
Summarized: PGM 2	With regard to job readiness and education, implement a job development program, leverage job readiness opportunities that already exist in the community such as the Re-entry Resource Center, reach out to community agencies that provide apprenticeship/ training programs, and explore educational programs through local universities and community colleges.	Implemented

Recommendation		Description	OCLEM Finding
Master List	115	Expand government grant funding to enhance workforce development and employment readiness and options for inmates through the re-entry center.	Implemented
	128	Review information on the Department of Labor website and utilize some of the resources being offered there in relationship to Apprenticeship. The County could leverage resources of DOL and our local Employment Partners to build into the Jails a quality training/employment path that assists individuals returning to the Community.	Implemented
	432	Explore viability of establishing apprenticeship programs with local trade unions to assist inmates in gaining marketable trade skills and job experience.	Implemented
	435	To increase and improve collaboration with community agencies to enhance transitional opportunities for inmates.	Implemented
	437	Implementing a Continuing Education Class with San Jose State University and Stanford University to create advanced education classes.	Implemented
	438	Creating a Job Development Class for female inmates. Additionally, the Sheriff's Office is working with Milpitas Adult Education program to implement a job development program for both male and female inmates.	Implemented

This set of recommendations relate to programming opportunities for inmates. Unlike some other recommendations – those requiring development of a new policy, for example – confirming implementation of these recommendations is not a matter of simply checking that appropriate documents exist to accomplish the recommendations’ objectives. In addition, the recommendations are anchored in time, with directives like “improve . . .” or “increase . . .” that require some knowledge of what programs were being offered at the time the recommendation was drafted. The Sheriff’s Office acknowledges that at the time these recommendations were developed, it was doing very little programming within the jails.¹ Rather than looking strictly at the phrasing of these

¹ A June 28, 2016 presentation to the Board regarding ongoing jail reform efforts, for example, listed a number of classes that recently had been added to the jail’s slate of programming opportunities, including parenting classes and college courses. These very basic “new additions” suggest the dearth of offerings

recommendations, then, we endeavored to learn about current programming opportunities and assess those considering the goals expressed in each recommendation.

The COVID-19 pandemic was a major intervening factor that derailed some progress the jails had made prior to March 2020. The necessity of closing the facilities to outside instructors and quarantine rules disrupted existing programs, some of which have not returned. But the pandemic also speeded introduction of technology in ways that have improved programming opportunities. The facilities introduced televisions capable of hosting remote classes in 2020, and those continue to be used for remote learning. In September 2021, the Sheriff's Office completed its rollout of the tablets which are used to provide a large amount of online educational content.

We believe the County has made sufficient progress to consider these specific recommendations to be implemented but note that providing quality programming opportunities to those in custody is an ongoing challenge. OCLEM, along with the Community Correction and Law Enforcement Monitoring Committee, will continue to play a role in the monitoring of the Sheriff's Office's efforts and will encourage the Sheriff's Office to continually seek new and expanded opportunities for programming for those in custody.

115: Expand government grant funding to enhance workforce development and employment readiness and options for inmates through the re-entry center.

The goal of this recommendation – expanding grant funding – is to find ways to enhance training and educational opportunities outside the Sheriff's Office budget. To that end, the Sheriff's Office has entered into a no-cost MOU with five community colleges, forming an SO Community College Collaborative, providing Career Technical Education (CTE) classes to incarcerated individuals via remote and in-person learning. Upon release, individuals can continue their college education by enrolling in any of the five community colleges. We find that the intent of this recommendation has been implemented.

prior to that time and support the Sheriff's Office position that programming opportunities have increased and improved since the time these particular recommendations were submitted.

128: Review information on the Department of Labor website and utilize some of the resources being offered there in relationship to Apprenticeship. The County could leverage resources of DOL and our local Employment Partners to build into the Jails a quality training/employment path that assists individuals returning to the Community.

The goal of this recommendation, as with Recommendation 115, is to provide education and job development opportunities with funding sources outside the Sheriff's Office budget. The SO Community College Collaborative accomplishes this objective. Courses currently offered include pathways for multi-media careers (video editing, digital design, web design), culinary/food sanitation, welding, and HVAC. The Collaborative plans to expand courses to include automotive, electrical, Google apprenticeship, entrepreneurship, landscaping, vet assisting, game design, communications, and substance certification/peer mentor.²

432: Explore viability of establishing apprenticeship programs with local trade unions to assist inmates in gaining marketable trade skills and job experience.

Again, the goal of this recommendation is to seek additional, non-budgetary resources for apprenticeship and job skills development programs. While the Sheriff's Office is not working with trade unions directly, the SO Community College Collaborative meets this objective of providing technical training classes.

435: To increase and improve collaboration with community agencies to enhance transitional opportunities for inmates.

In addition to the transitional opportunities provided through the Community College Collaborative, opportunities are enhanced by collaborative relationships between the Sheriff's Office and the Office of Reentry Services, Chaplaincy, Behavioral Health, Community Based Providers, Veterans Services, and the Office of the County Executive. At the end of 2014, the County created a new job specification for an Inmate Rehabilitation Manager. By job description, the Inmate Rehabilitation Manager is "to work closely with law enforcement agencies, courts, Veteran's Services, advocacy groups, community agencies, shelters, faith-based agencies and educational and vocational service organizations to develop, provide and evaluate programs and services

² The Sheriff's Office reports that the most significant impediment to this expansion is funding for materials, as the community colleges cannot provide all that is required.

to in-custody and out-of-custody inmates.” The individual currently in this position spearheaded the creation of the Community College Collaborative and is actively seeking to bring additional colleges into the collaborative to further expand on the number and types of classes and vocational opportunities being offered. This recommendation has been implemented.

437: Implementing a Continuing Education Class with San Jose State University and Stanford University to create advanced education classes.

While San Jose State and Stanford Universities are not part of the current collaborative, the intent of this recommendation has been met, we believe, by the creation of the Sheriff’s Office Community College Collaborative. In many ways, the current collaborative is more practical and sustainable than a partnership with those universities because of the ease with which those in custody can continue their education upon release. Classes created by Stanford or San Jose State specifically for those in custody would not necessarily provide college credits that could easily be applied elsewhere, and admittance to either university upon release could not be as seamless or easily attainable as admittance to one of the participating community colleges.

438: Creating a Job Development Class for female inmates. Additionally, the Sheriff’s Office is working with Milpitas Adult Education program to implement a job development program for both male and female inmates.

In January 2022, the Moss Group provided a report to the County: “Santa Clara County Sheriff’s Office Elmwood Correctional Complex for Women Gender-responsive Operational Assessment Report.” The report contains a section on programming, in which it states:

Programs at the jail have been undergoing a major transition to orient programs more toward women’s specific needs through trauma-informed programming, enhancement of vocational programming, such as welding and CISCO, and planning for transition to the community. Leadership, staff, and community partners interviewed express excitement and hope for the direction the division is taking.

The Moss Group report provides a number of recommendations for the Sheriff’s Office to create more gender-responsive programming opportunities. The relevance, timeliness,

and specificity of those recommendations exceed the language of this particular recommendation. The County has contracted with The Moss Group through March 2024 to follow up on the recommendations in its 2022 Report and to help guide the Sheriff's Office's efforts to provide gender-responsive services and programming. We find that the intent of this recommendation has been implemented.

Conclusion

The recommendations relating to document control issues, phone services for those in custody, and policies surrounding the use of surveillance video have been implemented.

We also find that the Sheriff's Office has completed the specific recommendations regarding the provision of inmate programming that are encompassed in Summarized Recommendation PGM 2. However, we acknowledge the certain "moving target" quality of these recommendations. To the extent the recommendations call for the Sheriff's Office to "improve" or "increase" programming, it has done so since the time the recommendations were written. The quality and quantity of educational and job development programs is no doubt better than in 2016 (when the Blue Ribbon Commission published its report). But there is still room for improvement, and calling these recommendations "implemented" is not meant to suggest that the Sheriff's Office does not still have work to do, particularly in the area of finding ways to provide consistent, quality programming opportunities to those with higher security levels housed in Main Jail.

OCLEM, along with the CCLEM, will continue to play a role in the monitoring of these efforts. These two entities did not exist at the time of the Blue Ribbon Commission. Their ability to monitor the Sheriff's Office and report on any progress or setbacks in the provision of programming in the jails is a better mechanism for advancement than referring back to the outdated individual recommendations audited in this report.