



24-5276

DATE: May 7, 2024 (Item No. {{item.number}})

TO: Board of Supervisors

FROM: Greta S. Hansen, Chief Operating Officer

SUBJECT: Updated Status of Jail Reform Efforts

RECOMMENDED ACTION

Receive report from the Office of the County Executive, Office of the Sheriff, Custody Health Services, Facilities and Fleet Department, and Office of the County Counsel relating to the status of the jail reform efforts.

FISCAL IMPLICATIONS

There are no fiscal implications associated with this informational report.

REASONS FOR RECOMMENDATION AND BACKGROUND

This is the first semiannual report for calendar year 2024 on jail reform efforts from the Office of the Sheriff (SO), Custody Health Services (CHS), Facilities and Fleet Department (FAF), Office of the County Counsel (CCO), and Office of the County Executive.

Additionally, this report includes information requested by the Board, at the suggestion of Supervisor Chavez, during the October 17, 2023 Board of Supervisors meeting (Item No. 11) for an assessment of jail reform efforts organized by category and to further organize our efforts to implement reforms. Administration, in collaboration with CCO and Office of Correction and Law Enforcement Monitoring (OCLEM), have reviewed the status of all 623 Jail Reforms Master List recommendations to develop a more efficient structure and recategorization to advance effective reform and implementation monitoring.

Recommendation to Restructure Audits of the Jail Reform Recommendations

Beginning in 2016, 15 separate entities, including the Blue Ribbon Commission on Improving Custody Operations, issued 623 recommendations for reform of the County's jails. These recommendations were compiled in a "Master List of Recommendations." In 2017, the Finance and Government Operations Committee received numerous reports from County Administration that grouped these recommendations and created 80 "Summarized Recommendations," which were approved by the Board. In late 2020, the Board requested OCLEM conduct audits of implementation of the jail reform recommendations. OCLEM has completed six audits, and in that process has deemed 316 of the 623 Master List Recommendations to be completed. With one exception (a recommendation for which the

Board requested further clarification), the Board has accepted OCLEM's determinations. Of the original 623 recommendations in the Master List of Recommendations, 307 remain to be audited by OCLEM as of April 16, 2024.

This process has revealed that there is a great deal of overlap between audits OCLEM has been tasked to complete and the work of the monitors appointed by the federal court to monitor progress of implementation of the *Chavez* and *Cole* remedial plans. It has also shown that many of the Master List Recommendations are now outdated, no longer applicable, or the objective of the recommendation could be better achieved through other means than the ones recommended. Further, the process has shown that the creation of 80 Summarized Recommendations has not been effective at streamlining the audit process as OCLEM has had to consider *both* the Summarized Recommendations *and* the Master List Recommendations in each of its audit reports. Further, on December 15, 2020, the Board requested that OCLEM look at each Master List Recommendation, thus, obviating the need for the Summarized Recommendations.

To address these concerns, Administration collaborated with County Counsel and OCLEM to recategorize the Master List Recommendations in a way that reflects the current status of those items from a completion standpoint as well as identifying those subjects that are part of the rigorous federal monitoring process. The updated list (Attachment A) includes all the Master List Recommendations and places them into three categories:

1. Recommendations that significantly overlap with the *Chavez* and *Cole* consent decrees and are therefore subject to monitoring by subject matter experts, with oversight from the federal court;
2. Recommendations where the Board has approved OCLEM's determination that they are completed; and
3. Recommendations that are not otherwise monitored and should be subject to continued monitoring by OCLEM.

There are 219 recommendations in Category One; 316 recommendations in Category Two; and 88 recommendations in Category Three.

Administration recommends that the Board approve removal of Categories One and Two from the Master List Recommendations and direct OCLEM to monitor the remaining recommendations in Category Three. Future Jail Reform Study Sessions will then focus on providing the Board updates on the Master List Recommendations not covered by the Consent Decrees and subject to audit by OCLEM.

As previously discussed, the recommendations in Category One are covered by the federal consent decrees and, thus, are already subject to independent monitoring by the subject matter experts in the *Chavez* and *Cole* cases. The rigorous nature of the monitor's review exceeds what OCLEM audits entail because the review is performed by neutral subject matter experts (*e.g.*, medical doctor, nurse, psychologist, use of force experts with extensive experience in custody settings) who evaluate thousands of documents, conduct individualized review of patient charts or events, and participate in numerous on-site interviews of

incarcerated persons/patients and staff. The pace of the monitoring work is such that a subject matter expert is on site almost every month so that the various monitors can complete their twice per year monitoring commitment for the given subject matter area. And, given that the monitoring work occurs in the context of litigation, the respective plaintiffs' counsel advocate for the class of incarcerated persons if they believe the monitors need to review certain topics or otherwise have a challenge to the County's compliance status. Lastly, because of the nature of federal class action litigation, the monitors and plaintiffs' counsel have unfettered access to even the most sensitive and legally protected types of information that exceeds any other monitors' access capabilities and ensures the ability of the monitors to achieve a thorough evaluation.

Recently, when OCLEM was tasked with auditing the Master List Recommendations related to dental healthcare—a topic squarely covered by the *Chavez* remedial plan—the audit validated that the dental healthcare topics are fully encompassed within the provisions of the remedial plan, were thoroughly reviewed by the subject matter experts, and recommended retiring those items. This required time and effort from OCLEM and County staff, but did not add to the work the federal monitors had done. For this reason Administration recommends that OCLEM no longer continue to conduct duplicative audits of overlapping consent decree subjects contained in the Master List Recommendations and that OCLEM instead focus on audit subjects more closely aligned to its original mission, such as the Sheriff's Office internal affairs policies and procedures (a subject that is beyond the scope of the remedial plans) and reform items not subject to expert monitoring under the consent decrees, preserving capacity to advance those important efforts more rapidly.

Focusing OCLEM's auditing assignment to the remaining 88 recommendations in Category 3 will allow OCLEM to focus its time and resources on recommendations that are not already being independently monitored by subject matter experts and that remain important jail reform recommendations.

The Consent Decrees and Independent Monitoring by Subject Matter Experts

In 2015, the Prison Law Office filed a class action lawsuit against the County, *Chavez v. County of Santa Clara*, alleging that the County violated incarcerated persons' constitutional rights by inappropriately housing them in solitary confinement; failing to adequately meet their healthcare needs for medical care, dental care, mental health care, and suicide prevention; using excessive force; and alleging that the County failed to provide accommodations required by the Americans with Disabilities Act (ADA) for individuals with non-mobility disabilities. In 2016, Disability Rights Advocates filed a separate class action against the County, *Cole v. County of Santa Clara*, alleging that the County violated the ADA regarding mobility-disabled incarcerated persons. Both class action cases sought system-wide remedial changes to address the alleged constitutional and ADA violations.

After years of negotiations, mediated by a federal court magistrate judge, the parties in each case reached agreement on various remedial measures designed to address the alleged constitutional and ADA violations. Those agreements are referred to as the "remedial plans." The *Chavez* remedial plan has 243 individual remedial plan items, and the *Cole* remedial plan

has 220 individual remedial plan items. The remedial plans are incorporated into both federal court-supervised consent decrees, which subject the County to ongoing court supervision and monitoring by mutually agreed upon subject matter experts,¹ called “monitors,” until the County can prove it has substantially complied with all elements of the remedial plans. The monitors have broad access to incarcerated persons, County staff, jail facilities, and documents, including direct access to electronic medical records. The monitors come to the jail facilities two times per year to assess and report out on the County’s progress on the remedial plan items pertaining to each monitor’s area of expertise. The County has posted report cards that summarize the progress of the monitoring on its Jail Reforms web site: <https://jailreforms.sccgov.org/consent-decrees-status>.

The County is expected to make continual progress toward substantial compliance with the remedial plans at each monitoring visit. In *Chavez*, the County will be permitted to enter self-monitoring if the County demonstrates substantial compliance in a subject area for a period of one continuous year. If, after successful self-monitoring for one year the County remains in substantial compliance in that area, that area is subject to termination from the consent decree. In *Cole*, the County has a fixed-duration term to the consent decree; *i.e.*, court jurisdiction and remedial plan obligations will terminate one year after a new jail facility—which will be built to comply with ADA requirements—is completed.

Under both the *Chavez* and *Cole* consent decrees, if a dispute arises about whether the County is complying with the consent decree and remedial plan terms, the parties must attempt to resolve the dispute informally with each other, if possible. If the parties are unable to resolve the dispute informally, the parties can seek court intervention. The remedies available to the plaintiffs’ class for the County’s failure to demonstrate progress vary in magnitude, from a court ordering the County to take a specific action tailored to a specific problem to appointment of a federal receiver to take control over all or a portion of the County jails in order to implement the remedial plan requirements.

The County continues to make progress toward compliance with the essential elements of the remedial plans in both *Cole* and *Chavez*.

Jail Reforms Progress Updates

Office of the Sheriff — Since the last update, the Office of the Sheriff has onboarded two additional staff into its Grievance Unit to improve responses for the individuals who file grievances. This will allow the Grievance Unit to better meet the needs of individuals. The Custody Bureau has also completed the Strategic Planning Process through the development of a Purpose Statement (refer to below) that will serve as the guiding principles moving forward.

¹ *E.g.*, experts in the fields of medicine, nursing, dentistry, psychology, use of force, and ADA construction and operations.

A trusted leader providing groundbreaking and restorative programs and services in a safe and inclusive environment that addresses trauma, reduces recidivism, and empowers justice-involved women for transformational change.

The Custody Bureau has been pleased to work with CHS on its Keep on Person (KOP) Medication Program that allows individuals in custody to manage their own medications in appropriate circumstances. Through this program, individuals will be able to more easily access medications as needed. Additionally, ADA compliant exercise equipment has been installed in every housing unit.

The Custody Bureau has also implemented a pilot program for individuals in custody to learn janitorial skills. This will provide much needed job skills to program participants.

Custody Health Services — CHS continues to work in close collaboration with the federal monitors under both Medical and Mental Health in addition to auditing, furnishing information requests, and submitting reports. On-site visits occurred in November 2023, February 2024, and March 2024, covering Mental Health, ADA, and Medical and Dental Monitors respectively. A Mental Health Monitor visit was scheduled for April.

In late 2023, CHS began its integration into Santa Clara Valley Healthcare (SCVH). This effort will strengthen operational efficiencies, which will assist with meeting requirements of the two federal consent decrees covering medical and mental healthcare in the County's jails. A centralized team and 15 workgroups have been established to focus on key areas within CHS.

CHS programs are also expanding to enhance patient care. An example includes the launch of the KOP pilot that expands the availability of certain oral medications for patients to take on their own.

CHS medical providers are able to focus more on patient care and treatment with the help of 24 hours a day, seven days a week contracted, on-call physician services handling consultation, medication reconciliation and discharge planning, and extra help advanced practice providers assisting with patient access, coordination, and stabilization. This complement of services has helped in streamlining patient access to care and reducing patient wait times.

Facilities and Fleet Department — As part of the work to implement some of the Jail Reforms Summarized Recommendations, the Board has approved jail facility capital projects focused on ADA facility improvements and suicide prevention updates. Of the total 16 approved ADA/Suicide Prevention Design and Construction projects, 15 have been completed by FAF and one is active as of April 2024.

Additionally, as of April 2024, FAF has completed or closed 60 projects, eight are currently in progress or the construction phase, and two are either on hold or awaiting future development out of a total of 70 jail-related capital projects. A jail projects spreadsheet that provides status updates as of April 2024 is included as an attachment to this report.

Technology Update

Since the last report to the Board on October 17, 2023, Technology Services and Solutions (TSS) and the SO have continued the Inmate Records Information System (IRIS) implementation of a new Jail Management System (JMS) on an expedited schedule. Initial project planning, on-site training, and business analysis sessions to validate the Request for Proposals (RFP) requirements are complete. The project team continues to move forward on multiple parallel work streams, including system configuration, gap analysis, interfaces, and data migration. While the configuration and gap analysis process are taking longer than planned, the project team is taking steps to compensate, and the Go-Live continues to be targeted for fall 2025.

The Inmate Tracking System (ITS) project had an on-site kickoff in November 2023 and is currently in progress. Project planning, installation in a test environment, and finalization of hard tag locations have been completed. There is work on a contract amendment to clarify scope while other tracks (configuration, interfaces, and reports) are progressing in parallel. The radio-frequency identification (RFID) hard tags have been configured to their matching locations and the SO has begun installing the tags in the jails. Although the hard tag finalization and configuration process have experienced delays, the project team is taking compensating steps to maintain the August 2024 targeted Go-Live date.

Update on the Criminal Justice Reforms and Jail Reforms Websites

Criminal Justice Reforms Website: At the Board of Supervisors meeting on October 17, 2023 (Item No. 11), Supervisor Simitian requested for the County Criminal Justice Reforms website to include information relating to use of military equipment and military-style equipment, use of force, surveillance, and bodycams usage in jail and community law enforcement settings. The Criminal Justice Reforms website has been updated with the requested information and related Board reports to provide a comprehensive overview of these initiatives. The Criminal Justice Reforms website can be accessed through the following link: <https://justicereforms.santaclaracounty.gov/home>.

Jail Reforms Website: As part of the County's phased approach in transitioning public-facing websites to a new web domain, design, and platform, the Jail Reforms website is scheduled to start the migration process in late spring 2024. This website migration will give the Jail Reforms website a new design that will provide a modern look-and-feel and functionality. The new design supports improved accessibility and a service focused user experience to help website visitors find what they need quickly. This will help make the website easier to navigate, search, and find the relevant information, whether a community member accesses the site through a computer or mobile device. The Jail Reforms website can be accessed using this URL: www.sccgov.org/jailreforms.

CHILD IMPACT

The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

CONSEQUENCES OF NEGATIVE ACTION

The Board of Supervisors would not be aware of updated information on jail reform efforts if this report is not received.

ATTACHMENTS:

- Jail Reforms Study Session PPT BOS 05 07 2024
- Attachment A Master List Recommendations Matrix BOS 05 07 2024
- Jail Projects Schedule Spreadsheet BOS 05 07 2024