

READ AND CONSIDERED

DATE 8/17/2021 BY B

Response to Grand Jury Report Form

Report Title: COVID-19 Mitigation at the County Jail

Report Date: June 20, 2021

Response by: Mark Essick Title: Sheriff

Agency/Department Name: Sonoma County Sheriff's Office

FINDINGS: F4, F5, F7, F8, F9, F10, F11

I (we) agree with the findings numbered _____

I (we) disagree wholly or partially with the findings numbered: **F4, F5, F7, F8, F9, F10, and F11**

(Attach a statement specifying any portions of the findings that are disputed with an explanation of the reasons.)

RECOMMENDATIONS: R1, R2, R3, R4, R6, R7

Recommendations numbered: **R2** have been implemented.

(Attach a summary describing the implemented actions.)

Recommendations numbered: **R1 and R6** have not yet been implemented, but will be implemented in the future.

(Attach a timeframe for the implementation.)

Recommendations numbered: **R4** require(s) further analysis.

(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.)

Recommendations numbered: **R3 and R7** will not be implemented because they are not warranted or are not reasonable.

(Attach an explanation.)

Date: 8/10/21 Signed: M Essick

Number of pages attached: **7**

(See attached Civil Grand Jury Response Requirements)

SONOMA COUNTY SHERIFF'S OFFICE
RESPONSE TO THE 2020-2021 GRAND JURY REPORT

COVID-19 Mitigation at the County Jail

The Sheriff's Office would like to take this opportunity to thank the Grand Jury for recognizing the efforts we have made during the pandemic to mitigate COVID-19 throughout our detention facilities to insure the on-going health and safety of inmates and our employees. The Sheriff's Office is committed to continuing to follow CDC COVID guidelines, and State and local COVID mandates and orders.

FINDINGS

F4. Keeping the incarcerated population at or below 800 people would save the County between five and six million dollars every year.

RESPONSE: The respondent partially disagrees with the finding.

The Sheriff's Office is acutely aware of the correlation between inmate population and the cost of housing and caring for individuals in our custody. We agree that variable costs are lower when the inmate population is lower. However, we do not have direct control of the inmate population and cannot, with any amount of certainty, commit to keeping the population at or below 800 inmates. The Sheriff's Office Detention Division FY 21-22 budget assumes an average daily inmate population of 800 for budgetary projections based on our current assumptions and best estimates. The FY 21-22 savings estimated as a result the reduced populations is approximately \$2.5 million, quite a bit less than identified in Finding 4.

The average daily inmate population within the jail is not controlled by the Sheriff's Office. Arresting agencies, the Court, District Attorney's Office, Office of the Public Defender, Probation Department and the California Department of Corrections and Rehabilitation all influence which inmates remain incarcerated within our jail. Therefore, with the continuous fluctuation of our inmate population, the Sheriff's Office considers a projection of our inmate population during a pandemic to be undependable. In return, the Sheriff's Office cannot adequately develop the suggested potential savings cost.

F5. The Sheriff's practice of issuing citations rather than arrests for misdemeanors and non-violent felonies has helped prevent the MADF population from increasing.

RESPONSE: The respondent partially disagrees with the finding.

The Sheriff's Office policy regarding issuing citations in the field for certain misdemeanors and non-violent felonies has not changed due to the pandemic. The Main Adult Detention Facility and North County Detention Facility are the only adult detention facilities in Sonoma County. Given this, the Sonoma County Sheriff's Office houses all individuals arrested by all law

enforcement agencies within Sonoma County. Therefore, it is not only the arrest practices of the Sonoma County Sheriff's Office that have an effect on the number of inmates booked and housed in the Sheriff's Office two facilities, but all law enforcement agencies practices. Additional data, including the practices of other law enforcement agencies within Sonoma County is required to concur with or disagree with this finding.

F7. The Sheriff's Office and Department of Health Services failed to collaborate in order to alleviate the isolation and reductions in programs that were imposed on the incarcerated population to mitigate health risks.

RESPONSE: The respondent wholly disagrees with this finding. The Sheriff's Office Detention Division began meeting with County Department of Health Services, Public Health Division (Public Health) and County Risk Management (Risk) in the very early stages of the pandemic in order to develop comprehensive procedures and protocols designed to protect the health and welfare of both inmates and staff. From the beginning of the pandemic, the Detention Division has followed all health orders regarding congregate facilities. The Detention Division continues to work closely with Public Health in an attempt to keep all of our inmates and staff members safe.

The Sheriff's Office acknowledges a reduction in programs during the COVID-19 pandemic. Since the beginning of the pandemic, the Sheriff's Office has continued to strategize and work in conjunction with several of our County partners, to include Public Health, in an attempt to mitigate health risks within our congregate facilities, while providing as many services as possible. During this pandemic, the Sheriff's Office and our County partners ranked mitigating inmate COVID-19 health related risks as a top priority. The primary focus has been, and will continue to be keeping COVID-19 from spreading within our facility. Controlling the pandemic at the County's adult detention facilities has drastically decreased potential litigation and complaints regarding the safety of incarcerated friends and family. As the Sheriff's Office continues to operate without a single inmate hospital admission due to COVID-19 complications, we are acutely aware of the sacrifices we continue to be forced to make in the form of inmate programming. As the pandemic begins to diminish and the threat of the virus weakens within our highly vulnerable congregate facilities, we will once again focus on the continuation of inmate programs. Our ability to reinstitute many of our inmate programs will continue to be dependent on the behavior of the virus and its variants.

In an effort to address the concerns regarding isolation and mitigate the Covid related impacts on inmates, the Detention Division approved the issuance of free phone cards to inmates during the worst stages of the pandemic and later offered free daily 10 minute phone calls. To alleviate the decreased inmate program availability as a result of Covid mandates and precautions, the Detention Division implemented classes and programs using zoom and other platforms.

F8. The Sheriff's new policy of inmate visits limited to once per month starting May 1, 2021 is insufficient to relieve a year's absence of visual communication with friends and family.

RESPONSE: The respondent wholly disagrees with the finding.

As of June 19, 2021, the Sheriff's Office has resumed pre-pandemic visiting guidelines for all inmates who have been incarcerated at our facility for more than 14 days and also received a negative result from a COVID-19 test.

From May 1, 2021 to June 19, 2021, the Sheriff's Office provided the above mentioned inmates with 3,797 available hours of visiting. Of those available hours, friends and family of the inmates only took advantage of and attended 403 hours, using only 11% of the available time.

In addition, only 11% of our inmate population has been housed in our facility for more than 365 days. Therefore, the entire population has not been absent of visual communication with friends and family for more than a year.

F9: Allowing jail staff and inmates to refuse testing and vaccination creates a risk to public health.

RESPONSE: The respondent wholly disagrees with the finding.

The Sheriff's Office recognizes the importance of COVID-19 surveillance testing, as well as the importance of the COVID-19 vaccination.

The Sheriff and his staff as well as County partners continue to work towards the goal of vaccinating as many staff members and inmates who are willing to do so. The Sheriff's Office inmate medical provider (CFMG/Wellpath), Public Health, as well as volunteer nurses and doctors continue to educate our inmates and staff on the COVID-19 vaccination. These efforts have resulted in over 494 inmate vaccinations since March 12, 2021. All inmates can request a vaccination at any time. CFMG/Wellpath continues to conduct weekly vaccination clinics within our facility.

F10. Discharge planners could play an indispensable role in preventing the spread of COVID-19 between the jail and the community.

RESPONSE: The respondent partially disagrees with the finding.

The Sheriff's Office believes discharge planners play an important role in connecting our inmates with the community. However, it is inconclusive on how crucial their role would be in preventing the spread of COVID-19 between the jail and the community, nor are we aware of data supporting a direct link between the two.

Since the onset of the COVID-19 pandemic, Sheriff's Office staff and CFMG/Wellpath have worked in partnership with the Public Health on every occasion when an inmate who is known to be positive for COVID-19 is released from our custody by the court or by citation.

It should be noted for informational purposes that the Sheriff's Office cannot legally hold an inmate for any unreasonable amount of time after the court orders their release from custody. Inmates may be released from Sheriff's Office custody outside of typical business hours and business days, and regularly without any significant amount of prior notification as a result of the Court's order. Therefore, a discharge planner would often not be present or have any significant time to plan the discharge of many inmates. It should also be noted, discharge planners are not necessarily involved with the release of every inmate. Inmates who are independently financially stable or have stable support systems would not require the services of a discharge planner.

F11. Adding at least four new discharge planners at the Main Adult Detention Facility would contribute to lowering the recidivism rate and therefore play a key role in maintaining a lower incarcerated population.

RESPONSE: The respondent partially disagrees with the finding.

The Sheriff's Office recognizes the important role discharge planners contribute to the incarcerated population. However, additional data and information is necessary before the Sheriff's Office can either agree or disagree if discharge planners would be directly associated with a lower inmate population. If they were proven to lower population it is not clear what the number of new discharge planners would be necessary to lower recidivism rates. As previously noted, discharge planners would not necessarily be involved with the release of every inmate. Inmates who are independently financially stable or have stable support systems would not require the services of a discharge planner.

RECOMMENDATIONS

R1. The Sheriff's Office develop, no later than September 1, 2021, a policy to restore out of cell activity, in person and video visitation, and all programs to pre-pandemic levels.

RESPONSE: The recommendation has not yet been implemented, but will be implemented in the future.

As of June 19, 2021, the Sheriff's Office has restored in person visiting and out of cell activity to pre-pandemic levels.

The Sheriff's Office acknowledges the importance of inmate programming. Because of the nature of our congregate settings, Detention staff continue to take all the steps necessary to stop the spread of COVID-19 within our facility. As a detention facility, we continue to follow more restrictive local and State directives and CDC guidelines than other areas of the community. Barring unforeseen circumstances, Detention staff will attempt to resume pre-pandemic level programming by August 20, 2021. This date could potentially be pushed out if additional COVID-19 requirements and conditions are imposed.

An important portion of programming is the socialization amongst inmates from different housing areas within classroom. Unfortunately, recent reporting of Public Health COVID-19 test positivity rates, active case rates, and the Delta variant, though lower than the height of the pandemic, have shown an increase in previous weeks and there have been a number of "break-through" cases in the community. The fraternization of inmates from different housing areas could potentially lead to the quarantine of several housing areas at the same time. This potential number of quarantined housing areas would be detrimental to the operation of our facility and the health and safety of inmates and staff.

Detention staff will continue to monitor COVID-19 case rates to determine if our August 20, 2021 date is the appropriate date to resume pre-pandemic level programming. As with all COVID-19 related decisions, we will consult with Public Health, Risk Management, and follow best practices and guidelines.

The Sheriff's Office continues to work with a vendor to provide the technology and infrastructure for video visitation at the Main Adult Detention Facility. It is the goal of the Sheriff's Office is to have this project completed by April 1, 2022.

R2. The Sheriff's Office implement 30-minutes of video visiting per week by September 30, 2021, and continue to until it fully restores in-person visits to their pre-pandemic levels.

RESPONSE: The recommendation was implemented.

As of June 19, 2021, the Sheriff's Office has restored in-person visiting to pre-pandemic levels. In addition, the Sheriff's Office continues to work with a vendor to provide the technology and infrastructure for video visiting at the Main Adult Detention Facility.

R3. The Sheriff's Office should continue the pandemic-era policies favoring citations over arrests.

RESPONSE: The recommendation will not be implemented.

The Sheriff's Office realizes the importance of citations for non-violent, non-sexual, non-serious offenses in managing jail population. However, the Sheriff cannot legally "favor" citations over arrests. Officers in the field are expected to use their training and experience to determine if issuing a citation is appropriate given the nature of the offense. In general, officers are always encouraged to evaluate each unique situation and respond appropriately.

R4. The Sheriff's Office and Board of Supervisors work together to develop a plan by December 31, 2021 to increase the contracted Wellpath resources to fund four additional Wellpath discharge planners for mental health and medical assignment to the Main Adult Detention Facility.

RESPONSE: The recommendation requires further analysis.

The Sheriff's Office recognizes the substantial role discharge planners play for our inmates with on-going mental health and medical needs. The most current CFMG/Wellpath inmate medical contract, the Sheriff's Office added a discharge planner to the Main Adult Detention Facility and the funding to cover the cost of the additional position. The Sheriff's Office FY 21-22 Adopted Budget does not include available resources to cover any additional medical or mental health staff. The Sheriff's Office will monitor the case load of the existing discharge planners, and continue to evaluate the need for additional discharge planners using empirical evidence and industry best practices. If additional discharge planners are warranted the Sheriff's Office will submit proposals to the Board of Supervisors who make the ultimate funding and contractual decisions.

R6. The Sheriff's Office implement a surveillance-testing program and require 100% participation by all unvaccinated jail staff by September 1, 2021.

RESPONSE: The recommendation has not yet been implemented, but will be implemented in the future.

The Sheriff's Office understands the importance of COVID-19 surveillance testing and has continued to provide voluntary testing to all jail staff members twice per week since the beginning of the pandemic.

In light of the California Department of Public Health's July 26, 2021 State Public Health Officer Order, the Sheriff's Office will be implementing this recommendation and be fully compliant with the Order by August 23, 2021.

The State Public Health Officer Order of July 26, 2021 requires that Sheriff's Office Detention Facilities comply with the order as High-Risk Congregate Setting. All State and local correctional facilities and detention centers must: verify vaccine status of all workers (both paid and unpaid, contractual, volunteers, and any personnel who could be exposed to infectious agents that can be transmitted in a health care setting) provide and require the wearing of FDA-cleared surgical masks, and provide mandatory diagnostic screening testing for asymptomatic unvaccinated or incompletely vaccinated workers at least one a week, and track vaccination information and testing results

As of the date of this response, the Sheriff's Office has been informed that Sonoma County Human Resources, Employee Relations will be meeting with labor bargaining units in an attempt to adopt this policy with ultimate authority being the Board of Supervisors. The Sheriff does not have the authority to bargain with employee unions or associations, therefore, does not have the authority to act on this recommendation.

R7. The Sheriff's Office reassign jail staff who decline vaccination or participation in surveillance testing by September 1, 2021.

RESPONSE: The recommendation will not be implemented because it is not warranted or not reasonable.

Given the State Public Health Order this recommendation is no longer warranted as vaccination tracking and surveillance testing it is now mandatory for State and local correctional facilities and detention centers. The Sheriff's Office will be fully compliant with the Order by the August 23, 2021 deadline.

The reassignment of Detention staff is not reasonable nor is it possible. The particular job classes assigned to the Detention Division are specific to perform their duties within a custody setting. Simply put, the Sheriff's Office does not have the opportunity to reassign a Correctional Deputy, Detention Specialist, Detention Assistant, Cook, etc. to another position outside of our congregate facility due to specifications within their job classes. Employee non-compliance with the mandate will be a personnel issue and handled following Sonoma County Civil Service processes as managed by the Sonoma County Human Resources Department and Civil Service Commission.