

INCARCERATION IN SAN LUIS OBISPO COUNTY: INMATE HEALTH AND SAFETY AT THE COUNTY JAIL

SUMMARY

As required by state penal code, the Grand Jury annually inspects all public prisons, including state prisons, county jails, juvenile halls, and holding cells for police departments and courthouses. In this year's inspection, the Grand Jury chose to take a detailed look at issues related to changes in population and programs, with a specific focus on safety and health at the San Luis Obispo County Jail (County Jail). This includes suicide risk and overall medical care.

In particular, the Grand Jury took an initial look at the death of four inmates from the County Jail between July 2016 and April 2017. Although it was only able to investigate those deaths to a limited extent given the current term of the jury and other constraints, it is recommending that the Sheriff and the County Health Agency conduct a joint review of the adequacy and appropriateness of management structure, policies and procedures as those three items relate to inmate safety and health.

The Grand Jury made several additional observations that supported this call for a joint review, including the following:

- Impact of recent laws on programming at the County Jail
- Complex medical reporting structure at the County Jail
- Reduced use of police holding cells
- Non-compliance issues identified during the 2014-2016 California Board of State and Community (BSCC) Inspections

The Grand Jury also identified opportunities for more effective use of space at the San Luis Obispo County Juvenile Hall (Juvenile Hall). This concern is addressed in a separate report

released on May 9, 2017 titled “Juvenile Hall: Safe, Secure and Supportive . . . But Does It Have Surplus Space?”

AUTHORITY

California Penal Code section 919(b) mandates “The grand jury shall inquire into the condition and management of the public prisons within the county.”

METHOD/PROCEDURE

The Grand Jury inspected the following sites by touring them and interviewing various officials during those visits:

- California Men’s Colony (CMC)
- County Jail, including
 - Men’s Honor Farm (Honor Farm)
 - Kansas Facility (Women’s Jail), including the Women’s Honor Farm
- Juvenile Hall
- Holding cells¹ operated by the police departments in the cities of:
 - San Luis Obispo
 - Pismo Beach
 - Paso Robles
 - Grover Beach
- San Luis Obispo County Courthouse Holding Facility

During the site inspections, the survey instrument found in Appendix A was used to gather information. In addition, representatives of both CMC and County Jail provided written follow-up to questions prompted by the survey or the inspections. On the CMC and County Jail visits,

¹ Note: the cities of Arroyo Grande, Atascadero and Morro Bay do not operate holding cells.

some inmates were also interviewed. The Grand Jury interviewed individuals associated with programming and medical care at the County Jail. Additional visits and tours were scheduled to Juvenile Hall and the Women's Jail after the opening of the new facilities.

Finally, the Grand Jury reviewed the following documents:

- Inspection reports completed this year by the BSCC
- Medical/Mental Health Evaluation of County Jail conducted by Institute for Medical Quality (IMQ)
- The reports of investigations by the Sheriff's office into inmate deaths while in custody at County Jail, one by suicide
- Local media coverage of deaths at the County Jail during this time period

NARRATIVE

This report is organized by first recapping the recent County Jail deaths, then presenting the focus and rationale of the 2016-2017 inspections, followed by overall comments and ending with more detailed descriptions of specific observations related to the County Jail.

DEATHS AT THE COUNTY JAIL

Three individuals under the care of the County Jail died in circumstances that raised broadly reported public concern.

- On September 20, 2016, a 36-year-old male inmate (Jordan Benjamin Turner) committed suicide while in custody. The inmate had been provided a safety razor to shave in preparation for a court appearance. Subsequently he used that razor to slash his arm and died from loss of blood. The Grand Jury requested and was provided a copy of the Sheriff's investigation and review of that in-custody death. Requested medical and psychiatric record information was not provided due to federal confidentiality laws.
- On January 22, 2017, a 36-year-old male inmate (Andrew Chaylon Holland) died in County Jail due to a pulmonary embolism. Prior to his death, he had been strapped in a

restraint chair for 46 hours, while awaiting transfer to a mental health facility. The Grand Jury requested information regarding the incident and was provided a copy of the coroner's report and relevant policies of the Sheriff's Office and the County Health Agency. Requested medical and psychiatric record information was not provided due to federal confidentiality laws.

- On April 13, 2017, a 60-year-old male inmate (Kevin Lee McLaughlin) died while in custody shortly after he complained of shoulder pain. He was later found unresponsive and could not be revived. The preliminary autopsy report indicated the inmate died of a heart attack. Shoulder pain is listed by the American Heart Association as a common warning sign of an impending heart attack.

In addition, in July 2016, a 62-year-old female inmate (Nicole Honait Luxor) died in hospital care, due to complications from gallbladder cancer, after transfer from the jail.

Following the April 13th death of McLaughlin, the Sheriff held a press conference to announce he was asking the District Attorney's office and the FBI to investigate that death, as well as any other recent deaths that they felt were warranted. (Since January 2011, 11 inmates have died while in custody of the County Jail.) The Sheriff also noted that recent state prison realignment (as discussed in a following section) has led to an increased need for providing medical and mental health services at the County Jail. As described in a following section of this report, medical care at the County Jail is the responsibility of the County Health Agency.

The Grand Jury does not normally investigate areas while cases are still under a separate internal or external investigation or a pending lawsuit. Accordingly, it determined it could not conduct a more in-depth look at this time into the circumstances of these three cases.

The Grand Jury recognizes a strong public interest in these three cases and the importance of a future, more detailed review. Additionally, the Grand Jury has concerns about delivery of medical and mental health care, restraint chair usage, transfers to the county's Psychiatric Health Facility and to the California Department of State Hospitals, and related policies and practices of both the County Jail and County Health Agency. Accordingly, the Grand Jury encourages future

grand juries to continue to monitor the resolution of these cases, including any changes to county services or procedures.

FOCUS OF THIS YEAR'S INSPECTIONS

In 2011, California signed into law Assembly Bill 109 for Public Safety Realignment (AB 109), which moved responsibility for a number of offenders from state prisons to county jails. In 2014, California passed Proposition 47 (Prop 47), which reduced certain felonies to misdemeanors that again impacted prison and jail populations. The Grand Jury sought to understand the impact of these laws on the local prison and jails. It took particular interest in population, programs and management, spotlighting how the local prison and jails deal with suicide risk and medical care.

With these questions in mind, the Grand Jury created a detailed set of questions (Appendix A) that it used as the basis of each of its inspections. Questions were modified to reflect the nature of the specific facility being inspected.

In addition to the impact of AB 109 and Prop 47, a number of significant changes occurred in local prisons and jails during the tenure of this Grand Jury. Notable events include the following:

- An expansion of the Juvenile Hall, which was authorized in 2009 and broke ground in 2014, came on line in the fall of 2016. This project increased capacity and added classrooms, administrative offices, counseling rooms and a gym.
- A new Women's Jail broke ground in early 2014 and opened in April 2017. It provides a facility separate from the men's jail, with additional space for programs shared by the two facilities. The former women's unit is scheduled to be demolished and replaced with a new medical facility to serve both the men's and women's jails. The new facility has a bed capacity of 196; during the Grand Jury visit on April 18, the population was 92.
- The Women's Honor Farm as a separate physical facility has been closed. Its residents are integrated into a space in the new Women's Jail with 24 dedicated beds; during the Grand Jury visit on April 18, 2017, the population was 13.
- Increased use of camera monitoring has been noted at the county facilities.

OBSERVATION 1. IMPACT OF AB 109 AND PROP 47

A primary focus of this year's inspection of both the County Jail and CMC was to review the impact of AB 109 and Prop 47.

Impact of AB 109 on the County Jail and CMC

Overall, AB 109 has resulted in a clear reduction in average daily population at CMC. Since the passage of the law, average daily population has dropped from nearly 7,000 to approximately 4,100. As a result of the smaller population, CMC has been able to reduce the need to double up inmates in cells originally designed for one, revise staffing models, and manage both its population and programs more effectively.

The reduction of the inmate population at CMC due to AB 109 corresponded with an increase in individuals placed at County Jail from January 2011 through 2014. The average daily population grew from 555 in 2011 to 697 in 2013. It also resulted in a change in the nature of the population, namely individuals serving longer sentences and for more serious crimes. This growth in population required both an increase in custody staffing and more programming for inmates while incarcerated; AB 109 provided funding for these programs. This change in population has also impacted the demands for mental and medical health care.

To increase bed capacity, the County Jail also undertook considerable reorganization of space. This included the following:

- Modifying the housing criteria at the Honor Farms to allow more inmates
- Adding extra beds to every housing unit
- Expanding capacity in alternative custody programs
- Accelerating release of inmates as authorized by state law

Impact of Prop 47 on County Jail

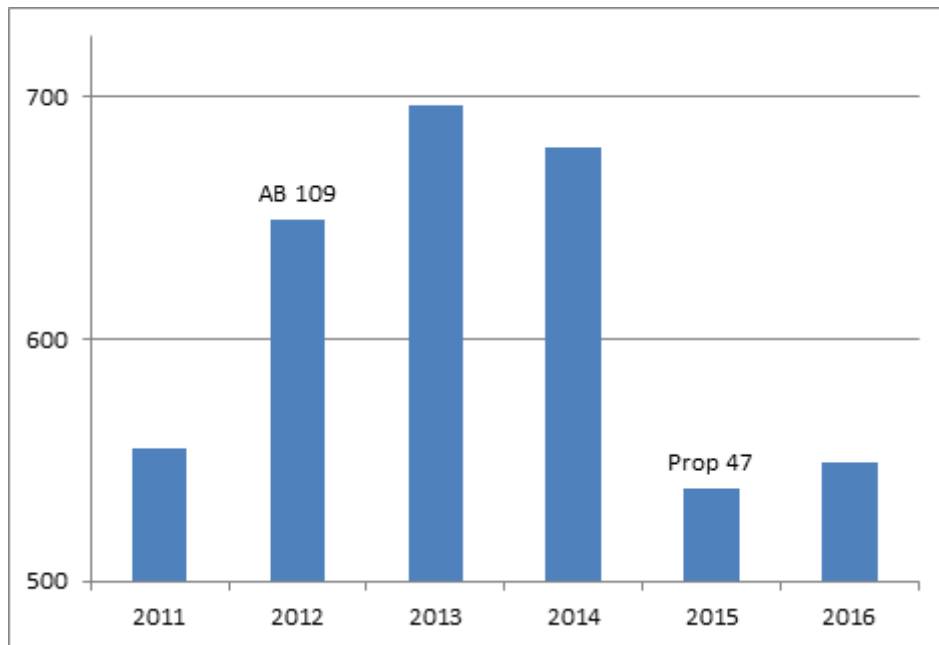
After passage of Prop 47 in 2014, the County Jail's average daily population began to shrink from its high of 697 in 2013 to 549 in 2016, returning to its pre-AB 109 level. The population

dropped because Prop 47 reduced the penalties associated with certain drug and property crimes and prevented prosecutors in most cases from charging those offenses as felonies. As a result of this new law, the following factors caused a decline in County Jail population:

- An immediate drop in new bookings on arrests and warrants for Prop 47 offenses caused a reduced flow of individuals into the jail system.
- Fewer convictions occurred for this category of crime, which further reduced the inmate numbers.
- The share of Prop 47 defendants receiving pretrial releases increased, which reduced jail populations.
- The average length of stay was reduced for sentenced offenders.

The overall change in the County Jail population over the period just described is summarized in Table 1.

Table 1. Average Daily Population at County Jail



Concerns on Programming Constraints on County Jail

AB 109 allocated state programming dollars to the County. The source of the AB 109 funding is a dedicated and permanent revenue stream² to the County through Vehicle License Fees and a portion of the state sales tax.

Table 2. AB 109 Realignment Funding

Time Period	State Allocation
7/1/12 to 6/30/13	\$5,565,653
7/1/13 to 6/30/14	\$6,802,936
9/1/14 to 8/31/15	\$5,848,236
9/1/15 to 8/31/16	\$7,164,312

The Community Corrections Partnership (CCP), which oversees programming services, has been fiscally prudent, and by policy has designated a contingency fund of \$500,000; however, it covers only approved items within the scope of CCP parameters. Any items required outside of CCP guidelines must come from other funding sources.

In reviewing the level of programming at the County Jail, the Grand Jury noted the following concerns:

- As the seriousness of inmate crimes has increased, a smaller percentage of County Jail population is considered eligible for Honor Farm placement. Currently the County Jail is seeking to streamline the application process and criteria used by classification and medical staff. Classification staff has also transferred qualified individuals directly from intake rather than first being housed in the jail. Further consideration of changes to the classification criteria may be needed.
 - Male Honor Farm: 49 were housed during our inspection, with a rated capacity for 63.
 - Female Honor Farm: In late December 2016, the 10 remaining inmates in the Female Honor Farm, which has a rated capacity of 57, were moved back into the general jail population.

² 2011 Public Safety Realignment Fact Sheet, California Department of Corrections and Rehabilitation, July 2012

- Inadequate physical space to conduct programming restricts the amount of programming offered, as well as inmate participation. Many programs/classes are taught in the communal area of a housing unit. These areas lack proper facilities and pose an elevated risk for providers and administrators.
- Various reports from program administrators and providers state resistance from custody staff to facilitate programming.
- Automated tracking of program participation just began in April 2016. Attendance is underrepresented due to un-sentenced inmates not linked to the report. Also, some programs cannot be tracked due to principal providers and privacy issues, e.g. Ministry, 12-step and substance abuse related programs. Cuesta College's attendance is not accessible to the Jail, but can be provided upon request. Programming attendance reporting is still a work-in-process at this time.

The Grand Jury encourages future grand juries to continue to review the level of programming in future inspections.

OBSERVATION 2. COMPLEX MEDICAL MANAGEMENT STRUCTURES

The Grand Jury sought significant information as it relates to inmate health and safety, including information related to injury, suicide and death rates, as well as data related to addiction treatment (see Appendix A).

Frequently, the Grand Jury found it challenging to obtain this information. In some cases we were told it was simply not available. But as a result of seeking this data, the Grand Jury came to understand the overall custodial head of the County Jail does not have management control over the medical elements. In fact, the authority over medical elements is complex.

Three different departments within the County Public Health Agency Services—which reports to the County Administrative Officer—provide health-related services; these programs are Drug and Alcohol Services, Mental Health Services, and Public Health Services. The jail itself is managed by the Sheriff's Department, which does not report to the County Administrative

Office. An independent evaluation of the delivery of medical and mental health services is provided by IMQ. The most recent survey was conducted on December 16, 2016.

Such a structure raises a concern about how well various aspects of inmate care are coordinated, especially when health issues cross multiple boundaries such as drug abuse, psychiatric care and on-going medical issues. In addition, the County has recently noted challenges in hiring professional medical staff at the County Jail, particularly in relation to mental health care roles. This may also have an impact on the quality and responsiveness of care.

Other counties, such as Santa Barbara County, provide custodial management direct control over medical care by contracting that care to an independent firm. Several such firms exist, including California Forensic Medical Group which provides correctional health care to neighboring Monterey County. Over the past few years, the Sheriff's office reports meeting with the County Administrator to discuss a possible request for proposal or request for information to explore such possibilities for this county. Rather than pursuing such proposals, the two parties determined to seek to improve communication and cooperation.

The Grand Jury encourages future grand juries to continue to review how well management structures support inmate care.

OBSERVATION 3. REDUCED USE OF HOLDING CELLS

In its inspection of holding cells at city police departments and county courthouse, the Grand Jury noted no concerns with the facilities themselves. However, it did make a general observation that local cities are making more limited use of their holding cells. Overall, cities seek to bring any person in custody to County Jail as quickly as possible; police departments may even interview the detainee in the patrol car in lieu of placing the person in the holding cell. This trend appears related both to the reduced staffing levels common to most city police departments and to increased concerns about liability. This increased reliance on the County Jail by local departments may further compound the challenges resulting from its changing population.

OBSERVATION 4. BSCC INSPECTION

On September 7, 2016, the BSCC issued the results of its 2014-2016 biennial inspection of the County Jail, which was conducted June 15-17, 2016. The purpose of this inspection is to verify compliance with the minimum standards for local detention facilities as outlined in Titles 15 and 24 of the California Code of Regulations. Resolving these violations is voluntary.

BSCC noted seven violations. One violation dealt with temporary bunks, the other six violations involved issues of health and safety:

- Nurses can issue psychotropic medications based on a telephone order but without benefit of a physician's examination or the inmate's consent. (This is non-compliant with Title 15, Section 1204, Health Care Procedures.)
- Potentially, a psychotropic medication could be administered without the inmate's informed consent or a determination of mental incapacity. (Title 15, Section 1214. Informed Consent. This also represents non-compliance with Section 1207, Psychotropic Medications.)
- At the time of the inspection, the County Jail had not completed its mandatory annual review of the health services manual. (Title 15, Section 1206, Health Care Procedures Manual)
- Completed inmate sick-call slips, a medical record, are handled by custody staff; this practice fails to protect physician-patient confidentiality. (Title 15, Section 1205, Health Care Records)
- The County Jail houses restrained inmates in the protected environment of sobering cells to minimize risk of harm, but such cells are intended only for inebriated inmates. (Title 15, Section 1056, Use of Sobering Cell)

As stated earlier, multiple agencies are involved with the delivery of health services at the County Jail; therefore, corrections to these violations may require changes to processes and procedures that involve both the Jail and the County Health Agency.

To the Grand Jury, these violations reinforce an overall concern with health and safety at the County Jail and the potential for inmate harm. The Grand Jury recommends that next year's grand jury specifically review whether the County Jail has provided to the BSSC evidence of correction to show compliance or rationale for non-compliance.

FINDINGS

F1. There is inadequate physical space to conduct programming for male inmates. This lack of space restricts the amount of programming offered, as well as inmate participation.

F2. There is no single official at the County Jail level that has true oversight and responsibility over all aspects of an inmate's well-being.

F3. Other counties sometimes contract correctional health care services to an outside provider giving the custodial side direct responsibility over all aspects of an inmate's well-being.

F4. Violations noted in the biennial BSCC report, issued September 7, 2016 involve health and safety issues that are largely managed by the County Health Agency.

F5. Recent deaths of inmates at the County Jail and violations noted in the most recent BSCC report have raised public concern over the adequacy of health and safety procedures and policies related to the current population.

RECOMMENDATIONS

R1. The Sheriff and the County Health Agency should conduct a joint review of the adequacy and appropriateness of management structure, policies, and procedures related to inmate safety, physical and mental health (including suicide prevention), and should issue a public report by December 31, 2017.

REQUIRED RESPONSES

The Sheriff is required to respond to Findings 1 through 5 and Recommendation 1.

The County Health Agency is required to respond to Findings 1 through 5 and Recommendation 1.

The responses shall be submitted to the Presiding Judge of the San Luis Obispo County Superior Court. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403

APPENDIX A. SURVEY TOPICS

The following is a summary of the key data sought by the Grand Jury prior to or during each inspection.

- 1) Population
 - a) Current census
 - b) Average daily census
 - c) Capacity
 - d) Average time a person is held
 - e) Are people ever held without charges
 - f) Significant changes in inmate population
- 2) Disciplinary actions taken against staff for inmate-related issues
- 3) Escapes
 - a) Details
 - b) Remedial actions
- 4) Use of force incidents
- 5) Health services
 - a) How delivered
 - b) Common medical problems
 - c) Public health concerns
- 6) Injuries
 - a) Injuries to inmates due to aggression/agitation
 - b) Accidental injuries to inmates requiring medical attention great than first aid
 - c) Injuries to staff by inmates due to assault or managing inmate aggression/agitation
- 7) Suicide
 - a) Suicide attempts/deaths
 - b) Serious self-injury incidents require medical attention beyond first aid
- 8) Drugs
 - a) Drug overdoses

- b) Drug deaths by overdose
- 9) Deaths
- a) Other deaths
- 10) Training (title, hours, and instructor credentials for each type)
- a) Managing inmate violence
 - b) Handling mental health behaviors
 - c) Responding to drug/alcohol related problems