

Sheriff's Department

Report of the 1999-2000 San Francisco Civil Grand Jury

OVERALL SUMMARY California Penal Code Section 919(b) mandates that each county civil grand jury "inquire into the condition and management of the public prisons within the county." This report is presented in three sections: jail conditions (beginning P.2); handling of inmate property (beginning P.14); and the inmate grievance procedure (beginning P. 21).

In general, the Civil Grand Jury finds that the physical conditions of the older jails and problems with food, laundry, telephone and medical services add to the stresses of living and working in the jails for both inmates and staff. A reported staffing shortage in the Sheriff's Department exacerbates the problems, resulting in reduced exercise time for inmates, overworked deputies, and large overtime and worker's compensation expenditures for the department. The construction of a new jail to replace County Jail #3 in San Bruno should greatly improve conditions for inmates presently housed in the old County Jail #3. However, the anticipated new jail should not be an excuse for delay in correcting ongoing problems at County Jail #3 and the other facilities.

The Civil Grand Jury also investigated how inmate property is catalogued and held for inmates and how inmates file grievances and obtain redress for official misconduct or mistreatment. The Civil Grand Jury finds that both the property cataloging and grievance procedures need to be altered in order to better protect the property and rights of inmates.

I. JAIL CONDITIONS SummaryIn the summer of 1999, inmate complaints about overcrowding, poor conditions, and alleged mistreatment in the jails culminated in an organized protest by inmates during which inmates threw their breakfast trays on the floor, yelled at deputies, kicked cell doors, and acted out aggressively. For a brief time, the media focused their coverage on jail conditions and the Board of Supervisors held hearings.

When the Civil Grand Jury visited the jails several months later, as well as in the spring of 2000, the Civil Grand Jury found the situation in the jails to have improved since the June 3, 1999 protest. Last summer, the overcrowding in the jails was so severe that many inmates were forced to sleep on the floors of jail cell blocks (also known as "tanks") and even in the prison gym at the Hall of Justice. Today, with the exception of a handful of women inmates in County Jail #9, almost all inmates are sleeping in bunks. While relief from overcrowding is partially due to fluctuations in the inmate population, changes in jail administration were also made to defuse the immediate, tense situation. However, as described below, more needs to be done to improve conditions in the jails and ensure the smooth and just operation of San Francisco's jails, which is vital if effective rehabilitation of criminals is to occur.

Background

The San Francisco Sheriff's Department reported that it currently has a uniformed staff of approximately 780 (with approximately 25 vacancies, the department has a total of 805 funded uniformed positions) and a civilian staff of 133. Together, the uniformed and civilian staff fulfill the department's primary responsibilities of operating the County's jails, providing security for the trial courts, the Youth Guidance Center, and City Hall,

and enforcing civil judgments. Around 80 percent of the department's staff either work in the jail facilities or in connection with the placement and maintenance of inmates in custody. On any given day, the jails house an average population of 2,200 inmates. These inmates are either serving their sentences (for periods up to one year) or awaiting trial. Approximately 600 additional people are not in custody, but are participants in alternative programs offered by the department, such as home detention or assignment to the Sheriff's Work Alternative Program.

Methodology

The Civil Grand Jury toured the jails, interviewed inmates, Sheriff's Department personnel, inmate advocates, a legislative consultant, and Public Utilities Commission staff, and reviewed applicable laws and regulations. The Civil Grand Jury also reviewed official reports from the Department of Public Health, State Board of Corrections, San Francisco Controller's Audits Division, Sheriff's Department, and past civil grand juries, as well as media coverage of the Sheriff's Department.

Conclusions and Recommendations

The specific conclusions of the Civil Grand Jury on each of the jails visited follow below.

A. County Jails #1 and #2

County Jails #1 and #2 located at the Hall of Justice have noticeable problems with ventilation and air flow which cause great discomfort to staff and inmates, especially in hot weather. The kitchen and laundry facilities, in particular, are difficult to work in on hot days because of the heat emanating from the appliances and the hot water used to wash dishes and clothes. Civil Grand Jury members observed only two fans were present in the kitchen, which were ineffective in circulating the air in the area.

Recommendations The ventilation problem at County Jails #1 and #2 should be corrected or at least alleviated in some way. Common sense suggests that working in hot, airless conditions often leads to short tempers and aggression, two things which are volatile in a penal setting. The Sheriff's Department should look into short-term and long-term solutions to improve the ventilation in these facilities.

Required Response

Sheriff's Department

B. County Jail #3

Opened in 1934, County Jail #3 is the oldest jail in operation in California. Despite its age, for the most part the jail is clean and functional. The need for a new jail is obvious to all concerned and has been so for years, as documented by the findings of a federal district court and previous Civil Grand Jury and other official reports. Notwithstanding this, this Civil Grand Jury points out specifically that the showers in County Jail #3 are in disrepair, with leaking floors, broken tiles, and dirty shower curtains. As with County Jails #1 and #2, there is a problem with ventilation and air flow. Further, the work order system for getting repairs done in the facility is inefficient, with problems noted by staff on work order forms which are routed from supervisor to supervisor before being approved. Because of this system, minor problems can take days and even weeks to be fixed. Lastly, inmates are currently allotted three hours each week of "yard time," during which they are allowed to exercise in the fenced yards behind the jails. Inmates are

entitled to the three hours of exercise time per week by court order. However, this is a minimum amount that could be increased by the Sheriff if he chose. While the Civil Grand Jury recognizes that additional yard time adds to the work burdens of deputies (who need to move inmates to and from the cell blocks, keep track of inmates while they are outside of the cell blocks and in the yards, and keep rival gangmember and troublesome inmates apart), providing more opportunities to exercise and spend time outdoors would benefit inmates housed in the unventilated cell blocks and cramped cells of this particular jail. Additionally, "vulnerable" inmates such as gay and transgender inmates who are kept in administrative segregation for their protection often do not get even the minimum three hours per week because of the extra work for deputies in scheduling times that do not conflict with the times for the general inmate population.

Recommendations

In the interests of inmate safety and hygiene, the showers should be repaired and the ventilation should be improved in all of the cell blocks in County Jail #3. A review of the work order system should be conducted to streamline the process for getting small repairs taken care of in the jail. Lastly, all inmates should be allotted more "yard time," provided that security and other staffing concerns are addressed.

Required Response

Sheriff's Department

C. County Jail #8

County Jail #8 is one of the new jails located at 425 7th Street in the South of Market area of the City. This jail offers programs for inmates and focuses on skill-building and decision-making in order to prepare inmates for their return to society. Several tuberculosis (TB) isolation cells are available in this jail to house infected inmates. These cells reportedly do not meet health and safety requirements with respect to air volume turnover rate and air pressure (needed to prevent spread of the air to other areas of the jail). According to Sheriff's Department personnel, the jail medical facility located at San Francisco General Hospital also has the same problem with its cells and must house inmates in unsecured rooms guarded by deputies around the clock.

Recommendation

Given the high costs of quartering TB-infected inmates in other locations, the existing cells should be retrofitted to comply with all applicable regulations. Additionally, because inmates are disproportionately low-income persons who have lacked consistent medical care prior to incarceration and who often have pre-existing medical conditions, there is a real possibility that more inmates will become infected with TB or other contagious diseases. As a public health issue, as well as a jails issue, there is a need to plan for additional isolation cells for use by Jail Medical Services to hold infectious inmates. The retrofitting of the TB isolation cells should be undertaken as soon as possible and a plan for addressing the future needs of Jail Medical Services in holding and treating infectious inmates should be prepared.

Required Response

Sheriff's Department

D. County Jail #9

County Jail #9 is also located at the new building at 425 7th Street. Serving as the booking and intake/discharge jail, County Jail #9 books approximately 150 inmates every day, with peak booking times occurring at 10 p.m. and 2 a.m. Specifically, Civil Grand Jury members noted that the women's section in this jail is overcrowded. Several women inmates are forced to sleep on the floor as there are not enough beds. Interestingly, a number of deputies (male and female) indicated that they prefer working with male inmates, stating that female inmates are more disruptive and exhibit more aggressive and violent behavior than the male inmates. Whatever the reasons are for this behavior, the overcrowded condition of the women's section undoubtedly adds to the problem.

Recommendations

A plan to reduce the overcrowding in the women's section of County Jail #9 and to address the future needs for housing a growing population of female inmates should be prepared by the Sheriff's Department. The Sheriff's Department should also investigate the causes (e.g., mental illness, jail conditions) which lead to the disruptive and aggressive behavior of female inmates and implement a harm-reduction policy to better protect inmates and staff from problem inmates.

Required Response

Sheriff's Department

E. County Jail #7 County Jail #7 is the San Bruno program facility that houses 336 inmates. With an average length of stay of 45 days, inmates participating in County Jail #7's various rehabilitation programs (such as the drug treatment program Roads to Recovery, the domestic violence program Resolve to Stop the Violence Project, and English as a Second Language (ESL), general equivalency diploma (GED), and adult basic education programs) purportedly have a far lower recidivism rate than inmates who do not participate in these programs. Open slots in County Jail #7's program beds are filled by inmates housed at County Jail #3 next door. Eligible inmates are identified by deputies and program staff (who are non-deputized and non-uniformed Sheriff's Department personnel), based on classification and other factors such as behavior while in jail, or placed in the programs through court-mandated participation. Inmates can also be removed from programs upon the recommendation of deputies and program staff. Inmates have alleged that the current process for program participation allows deputies and program staff to penalize certain inmates (such as homosexual or transgender inmates or inmates who file grievances against staff) by denying them the opportunity to participate in a program (and therefore be housed in the newer facility). Inmates separated from the main population because they are "vulnerable" are also prevented from participating in the programs because they cannot mingle with other inmates in County Jail #7's "pod" housing (where inmates eat and sleep together in an open, dorm-like room monitored by deputies, as opposed to in cells).

Recommendations

The process by which inmates are selected to participate in the rehabilitation programs should be reviewed to eliminate the possibility that an inmate may be unfairly denied participation in or removed from a program without proper justification. Reasonable

accommodations should be made to allow vulnerable inmates to participate in the programs.

Required Response

Sheriff's Department

F. Newly-Installed Jail Telephone SystemIn March of 2000, the installation of a new jail telephone system in all of the county jails was completed. Instead of the old coin-operated telephone system, all of the jails now have new telephones which allow inmates to place collect and debit calls (calls paid for with cash held in an inmate's commissary account). A new, non-coin-operated telephone system was necessary because the contract for the old system expired and could not be renewed and because the presence of coins in the jails led to problems of theft and extortion amongst inmates.

Virtually all of the inmates with whom Civil Grand Jury members spoke complained about the new telephone system, the installation and implementation of which has been plagued with computer glitches and equipment problems. The Sheriff's Department and the vendor have reportedly fixed the installation problems. Inmates, however, are most upset that the cost of making a local call has increased more than seven times the previous \$0.35 cent rate.

A local call in the 415 area code now costs inmates \$0.75 cents for three minutes. Every minute after the first three minutes is billed at \$0.15 cents per minute. No phone call may last longer than 15 minutes. A 15-minute phone call therefore ends up costing \$2.55. The Sheriff's Department claimed that the high charge reflects several factors, among them a state Public Utilities Commission (PUC) additional surcharge which the PUC places on all calls made by inmates from jail. Thus, all calls, whether collect or debit (i.e., paid for by inmates using personal identification numbers (PINs)), will cost more than a collect or calling card call placed by someone outside of jail.

The new system operates through the use of a PIN, which each inmate is given upon entering the jails. This PIN must be entered every time an inmate places a call from a pay phone located in a cell block. The charge for the call is then deducted from the inmate's commissary account, which holds money deposited by friends or family or other third parties. If an inmate makes a collect call, the person receiving the call must accept the charges. Phone dialing instructions are posted in the cell blocks and inmates are instructed how to use a PIN and the phones and told about the cost of calls. Although the Sheriff's Department reported that it did not expend any county funds to create or install the new system (the costs of which were paid for by the vendor), the Sheriff's Department does receive funds in the form of commissions and bonuses from the telephone vendor. This practice is not uncommon in the contracting for jail and prison telephone services. As documented in articles in local and national newspapers, several states take bids on their prison telephone service contracts, which go to the service provider paying the highest commissions. The State of California reportedly received \$16 million in 1999 and is likely to receive in excess of \$20 million from the telecommunications providers for the state prison telephone system for the year 2000. Similarly, the April 22, 1999 contract for jail telephone service, executed between the Sheriff's Department and the service provider PCS Public Communications Services (PCS) of West Los Angeles, provides for the Sheriff's Department to receive a "set commission" of \$0.30 cents per "local" debit telephone call placed from the jails. A copy

of relevant sections of the Sheriff's Department contract with PCS is attached as Attachment 1.

The contract also allows the Sheriff's Department to increase the \$0.75 cent-initial rate for the first three minutes of a call when it chooses and the amount of the increase will be directly added to the Sheriff's Department's commission "on a one-to-one basis." For all collect local and toll calls (non-long distance calls), the Sheriff's Department receives 35 percent of the total of all gross chargeable revenues generated by use of such telephones for those calls. For all long distance calls, the percentage is increased to 40 percent. Last but not least, the Sheriff's Department is also paid an additional annual bonus of \$5,000, the first payment of which was due three months into the contract and thereafter every February 1st. Thus, at the end of the five-year contract, the Sheriff's Department will have realized a \$25,000 bonus paid by PCS.

By state law (Penal Code Section 4025(d)), any money, refund, rebate or commission received by a county sheriff from a telephone company or pay telephone provider and attributable to inmate use of telephones while incarcerated must be deposited into the Inmate Welfare Fund. Money deposited into the Inmate Welfare Fund must primarily be spent for the "benefit, education, and welfare" of the inmates, but may also be spent for jail maintenance and essential clothing and transportation expenses for indigent inmates about to be released from jail (Penal Code Section 4025(e), (i)). The commission and bonus checks to which the Sheriff's Department is entitled under the terms of the PCS contract are to be made out to the Sheriff's Bureau of Building Services. Although the use of these funds may lawfully be directed to Building Services functions that indirectly benefit inmates through facility maintenance, inmates would no doubt prefer to benefit more directly from the funds obtained through the contract by paying less for phone calls.

Higher phone call costs are a particularly hard burden on inmates and their friends and families, who tend to be low-income. If, as reported by a 1998 study by the Florida House of Representatives, inmates who keep in contact with friends and family during their incarceration have a reduced rate of recidivism, discouraging telephone calls by inmates is bad public policy. By making the cost of keeping in touch with people on the outside prohibitive, the Sheriff's Department essentially erects an artificial barrier to rehabilitation.

Recommendations

1. The Sheriff's Department should publicly report on the basis of the high cost of calls made through the jail telephone system and the use of the commission and bonus funds received from the vendor for the Inmate Welfare Fund.

The Sheriff's Department claimed that the high cost of the calls was set by the vendor in conjunction with the PUC, which allegedly places a surcharge on all calls made from county jails. An "inmate surcharge", ranging from \$1.15 to \$3.95 per call, is placed on all calls made from inside of the jails, with the exception of local debit calls (see PCS Rate Sheet, Attachment 2). The Civil Grand Jury was unable to obtain information from the Sheriff's Department or the PUC office in San Francisco about the inmate surcharge and, specifically, the purpose and authority for the collection of that surcharge. A report from the Sheriff's Department detailing the basis for the cost of the calls is required to

fully understand and document the various surcharges and taxes applied to the calls and paid for by inmates and their families.

Required Response

Sheriff's Department
Sunshine Ordinance Task Force

2. The Board of Supervisors should enact legislation similar to California Senate Bill 1978 regulating the award of the jail telephone service contract for the county jails.

Senate Bill 1978, introduced by Senator Tom Hayden in February 2000, seeks to enact legislative findings and declarations about the provision of telephone services to wards of the Department of the Youth Authority or to inmates in state prisons. More importantly, the bill would require that any contract to provide such telephone services be negotiated and awarded in a manner (i) to provide for the lowest possible costs to wards and inmates, (ii) to pay for any expenses of the Department of Corrections and the Department of the Youth Authority, as well as for the reasonable costs of the Department of General Services for establishing and administering the telephone contract, and (iii) so that profits to these departments or the state are not be a basis for awarding a contract. Because this bill, if passed, apparently will apply only to the state prison system, similar legislation at the county level is needed in order to ensure that the telephone service contract for the county's jails puts the interests of inmates and their families first and foremost.

Required Response

Board of Supervisors
Sheriff's Department

G. Medical Treatment of Inmates

On June 28, 1999, inmate Vincent Hines was found dead of a heart attack in his cell by deputies doing a scheduled walk-through of the cell block. Mr. Hines had been placed in lockdown for organizing the June 3 protest by inmates about conditions in the Hall of Justice facilities. A review of the incident reports filed by deputies present at the time reveals that early on the morning of June 28, Mr. Hines was visibly in pain and that he clearly stated to deputies that he was having chest pains. Mr. Hines was taken to see jail medical staff who checked his condition. He was returned to his cell and found dead soon after. The incident reports indicate that jail medical staff did not give Mr. Hines additional medication or advise him not to self-medicate by taking additional doses of medication he had been prescribed earlier. There appears to be a question as to whether or not sufficient explanation was given to Mr. Hines about the medication he was taking at the time and the pain he was experiencing. Arguably, more care could have been taken with Mr. Hines, who had a history of cardiac problems.

Recommendation

The Civil Grand Jury did not fully investigate the death of Mr. Hines and, therefore, does not make any recommendations here with respect to that matter. However, several inmates to whom Grand Jury members spoke complained that the medical treatment they receive in the jails is cursory and that medical staff respond to emergencies, while disregarding inmates with chronic conditions and sparing little time to listen to or advise

them about treatment. Medical grievances also represent the greatest number of grievances filed by inmates (see Part III discussion below). The 2000-2001 Civil Grand Jury may want to look at the larger issue of whether or not the medical care received by inmates is adequate.

Required Response

None

H. Food Service

The jail food service contract with Aramark Correctional Services states that inmates should receive two hot meals and one cold lunch (usually sandwiches) every day. State dietitians approve the daily diets and the menus are rotated periodically. Many inmates continue to complain, however, that the amount of food served is inadequate, that the food is often served cold, and that there is no hot water for commissary items such as coffee, tea, and Cup-A-Noodle®.

Recommendation

Efforts in this area, which are relatively economical, could yield significant improvements in inmate perspective and attitude about the conditions of the jails. One inmate mentioned that the practice of rewarding inmates who kept their tank the cleanest with cookies was an effective incentive. Inmates in the jails have long made complaints about the food. The Sheriff's Department should address these complaints to see if the food service can be improved and hot water provided.

Required Response

Sheriff's Department

I. Laundry Service

The Sheriff's Department states that ideally inmates would receive a change of clothing and bedding several times a week. Inmates told Civil Grand Jury members that they do not always receive clean clothes even once a week. Part of the problem is caused by the fact that inmates do laundry for the jails as a work-detail job. Broken equipment (such as the burned-out washer and dryer in County Jail #1) that is not quickly replaced, and low output on the part of those doing the laundry result in backlogs of dirty laundry and shortages of clean laundry.

Another reason for the laundry service difficulty in recent months is that there has been a shortage of clothing for inmates. Penal Code Section 4015 states that "[t]he board of supervisors shall provide the sheriff with necessary food, clothing, and bedding, for [all persons committed to jail], which shall be of a quality and quantity at least equal to minimum standards and requirements prescribed by the Board of Corrections for the feeding, clothing, and care of prisoners in all county, city, and other local jails and detention facilities." The contract for inmate clothing goes through the typical government approval and bid process. The Sheriff's Department reported that the successful lowest bidder for the clothing contract in recent years met the minimum clothing requirements, but that this resulted in a supply of cheap, poorly-made clothing that wore out quickly, causing a shortage to develop. When the supplier went out of business, the Sheriff's Department had no recourse against them to obtain replacement clothing.

Recommendations

The Sheriff's Department should look into contracting out laundry service and ending the use of inmates to do the laundry in order to ensure a regular, dependable schedule for the exchange of laundered clothing and bedding. The Sheriff's Department and the Board of Supervisors should also look into the contract bidding process to see if it can be amended to allow for consideration of other factors besides bid price, such as the quality of clothing and customer support provided. Additionally, a stockpile of extra clothing and bedding should be maintained for use in times of increased populations in the jails.

Required Response

Mayor

Board of Supervisors

Sheriff's Department

J. Shortage of Sheriff's Department Staff

In spite of annual increases in funded positions from 818 in Fiscal Year (FY) 1997-1998 to 845 in FY1998-1999 and 897 in FY1999-2000, the Sheriff's Department reports that it has a shortage of deputies in the jails. The department's shortage of staff has apparently resulted in a departmental overtime budget that will be exceeded by \$4.9 million in FY 1999-2000 because deputies have been assigned mandatory overtime shifts. Workers' compensation claims will also cause the department's budget to be exceeded by 40 percent, with at least \$1,370,493 to be paid in claims for the 1999-2000 fiscal year.

A pattern of increased overtime spending by the department is beginning to appear. The November 19, 1999 Controller's Audit of the Sheriff's Department stated that overtime spending for jail staffing increased by more than \$650,000, or almost 60 percent, over the previous two fiscal years, 1997-98 and 1998-99. This pattern benefits no one. As the Controller's Audit noted, "[i]n addition to its impact on the budget of the Sheriff's Department, prolonged overtime by staff members may lead to fatigue and diminished attentiveness, conditions that can endanger the safety of the staff, jail inmates, and the public."

According to the Controller's Audit, the Sheriff's Department took over responsibility for recruitment and hiring from the Department of Human Resources in 1999. This transfer of responsibility has not solved the staffing problem, however. The tight job market has resulted in a lack of applicants and the economic boom of the private market makes the salaries and benefits that the department can offer less attractive. Almost all City and County departments face this recruitment and hiring problem, but the Sheriff's Department claims to have a more difficult time in attracting and retaining staff because it has direct competition from the higher-paying Police Department. Although the Controller's Audit found that only 9 of the 308 individuals (or 3 percent) hired as deputy sheriffs during the period of July 1994 through January 1998 left the Sheriff's Department within 18 months of joining the department for jobs with the Police Department, the Sheriff's Department states that 40 employees moved to the Police Department during that period.

The reported staffing shortage is allegedly compounded by the fact that more duties are being given to the Sheriff's Department. In addition to providing security for the county trial courts and the Youth Guidance Center, Sheriff's Department deputies are now required to provide 24-hour security for City Hall in order to protect city and county elected officials and employees working late hours.

Recommendations

If, as the Sheriff's Department reports, there is a staffing shortage in the jails, additional resources should be dedicated to the Sheriff's Department in order for the department to hire qualified applicants and retain existing staff. Improving the physical conditions of the jails, thereby alleviating some causes of inmate aggression, will also improve the working conditions of deputies. Lastly, the Sheriff's Department should consider the substitution of security guards for deputies wherever appropriate.

Required Responses

Mayor
Board of Supervisors
Sheriff's Department

II. HANDLING OF INMATE PROPERTY

SUMMARY

The Civil Grand Jury conducted an inquiry into the management of the Property Room located in the Sheriff's Department Intake/Release Center (IRC) at County Jail #9. There are approximately 150 bookings per day. It is estimated that there will be 55,000 total arrests in a typical year. All of these will require the handling of property and clothing. The Property Room appears to be efficiently operated, featuring a long, mechanized overhead track on which hang 2,600 numbered garment bags that contain the personal belongings of inmates.

This modernized system has contributed to a reduction in the number of lost property claims filed against the Sheriff's Department. Nevertheless, this new property room, which has existed for only three years, needs more space. It is presently in an overflow situation. Furthermore, additional steps can and should be taken to further reduce the quantity of claims, and insure the proper safeguarding of funds and property.

BACKGROUND

On November 1, 1999, the Civil Grand Jury visited the Property Room located in the IRC at County Jail #9 and interviewed Sheriff's Department personnel. The IRC receives and secures money, clothing and property of all arrested persons entering the San Francisco County Jail System. It is the goal of the IRC to ensure that the belongings of arrested persons are securely stored and to prevent the introduction of contraband items into the jail system. Belongings are supposed to be returned to inmates upon their release. The Civil Grand Jury decided to investigate the property return process.

METHODOLOGY

The Civil Grand Jury visited the Property Room at County Jail #9 and interviewed Sheriff's Department personnel. Also reviewed were the lost property claims from the last five years from both the Sheriff's Department and the City Attorney's Office.

Additionally, the Civil Grand Jury reviewed the relevant claim forms, the Sheriff's Department's responses to these claims, and the Property Room Procedure (revised 3/8/99) found in the Operations Manual for County Jail #9.

Furthermore, the Civil Grand Jury extracted 40 claims from the City Attorney's list (more fully described below) and then developed Table 1 in order to provide a quick sampling of that entire listing. This table consists of:

- The 10 claims made for the least amount of money;
- The 10 claims made for the most amount of money;
- 10 claims made for amounts from \$300 to \$500; and
- 10 claims which the City resolved by paying claimants.

CONCLUSIONS AND RECOMMENDATIONS

A. Lost Property Reports

The table of claims compiled by the Civil Grand Jury below provides an overview of the types of claims for lost property made by inmates. Admittedly, it does not provide the reasons generating the claims, nor the reasons for the disposition of the claims. From our research, however, we draw the following conclusions:

1. Reports on lost property claims were erratic and incomplete. The Sheriff's Department provided a "barebones" list covering the period of 1996 through September of 1999, and presenting only a total of 141 claims. The City Attorney's Office provided a computerized list for the same period presenting a total of 222 claims. The City Attorney Office report also included information about the claimant, the property allegedly lost, and the disposition of the claim. The Civil Grand Jury based our findings upon the analysis of the list from the City Attorney's Office because it was more comprehensive than the list from the Sheriff's Department.
2. Under the current system, some inmates should have filed claims against the Police Department, not the Sheriff's Department, since arresting officers normally confiscate, inventory, and seal arrestees' property other than their clothing.
3. Under the current system, inmates who claim losses while in the custody of the Jail Medical Services should file against the Public Health Department, not the Sheriff's Department.

TABLE 1 - SELECTED CLAIMS AGAINST SHERIFF'S DEPARTMENT (as of 9/22/99)					
CLAIM NUMBER	CLAIMANT NAME	INCIDENT DATE	SUBJECT OF CLAIM	CLAIM AMOUNT	AMOUNT PAID
95-04304	Karen A.	04/20/96	\$400 from Supplemental Social Security	\$400.00	\$0.00
95-04305	Noel S.	05/27/96	Hair and tooth brushes, and \$5	6.98	0.00

97-00495	Gerry G.	07/01/96	Soap, deodorant, cocoa butter, washcloth	8.30	0.00
97-00841	Brandon F.	07/19/96	Head scarves	2.00	0.00
97-01149	Abdullah D.	09/09/96	Jeans, polo sweater, Calvin Klein underwear	236.00	100.00
97-01984	Robin J.	12/02/96	Kool Aid, hair grease, jalapeno chips	8.89	0.00
97-02806	Roberto C.	01/06/97	Wallet and contents, green card	10,000.00	0.00
97-02948	Tony F.	09/06/96	Clothing	10,000.00	0.00
97-03077	Charles C.	02/13/97	Bifocals, parole clothes, personal papers	10,000.00	0.00
97-03763	Alvin T.	10/31/96	Wallet, jewelry, clothes	10,000.00	0.00
97-03837	Jerome B.	01/25/97	Cinnamon rolls, Jolly Ranchers, and Snickers	6.01	0.00
97-04348	Jeremy S.	01/28/97	New-age necklace, sunglasses, CDs	10,000.00	0.00
98-00120	Anthony K.	10/27/96	Wedding band with five stones	14.00	0.00
98-00451	Gabriel H., Jr.	08/05/97	Outer/underwear, jewelry, sunglasses	450.00	0.00
98-00468	Amber S.	05/30/97	Tablets, envelopes, postage	14.82	0.00
98-00469	Amber S.	06/21/97	Photocopies of cars and trucks	10.20	0.00
98-00650	David H.	06/30/97	Folger's coffee, Advil, Dial soap	13.16	0.00
98-01213	Marc S.	01/28/97	Clothes (leather shoes and	350.00	0.00

			coat)		
98-01456	Rodolfo R.	05/05/97	Lost weight and hearing, mental anguish	10,000.00	0.00
98-02659	Jennifer S.	11/28/97	Rings, earrings, phone bill, driver's license	180.00	135.00
98-02725	Blaire L.	12/07/97	Stamps, fingernail clipper	4.74	0.00
98-03127	Matthew M.	12/26/97	Air Nike tennis shoes	169.00	169.00
98-03208	William K.	03/20/98	Wolverine boots	100.00	100.00
99-00497	Craig A.	06/16/98	Eyeglasses	303.00	0.00
99-00591	Ray S.	03/28/98	Dentures, pain and suffering, mental anguish	10,000.00	0.00
99-00720	Harleem S.	05/01/98	Visa card, hotel check card, calculator	7,500.00	Open
99-00979	Wayne S.	08/16/98	Leather jacket, cassette/radio, sports bag	310.00	0.00
99-01011	Robert P.	09/16/98	7-Crown whiskey bottle, scarf, notebook, etc.	305.00	0.00
99-01071	David M.	06/26/98	Playboy magazines	36.95	36.96
99-01128	Michael S.	07/27/98	Legal pad, eyeglasses, toothpaste, oil	25.00	25.00
99-01144	Roy W., III	04/23/98	Coat, pants, shirt, Jordan shoes	490.00	0.00
99-01346	Reginald R.	10/08/98	Loss of freedom, job, home, car	10,945.95	0.00
99-01678	Randy D.	07/07/98	Clothes, Walkman, pepper spray, TV, cart	318.00	0.00

99-01983	Roland B.	07/24/98	Food stamps	177.00	88.50
99-02296	Takmenika H.	12/19/98	Deodorant, cocoa butter, powder, pride	6.42	6.42
99-02645	Kennard C.	01/13/99	Jordan shoes	162.00	162.00
99-02916	Harleem S.	04/30/98	Bank card, traveler's card, calculator	7,500.00	0.00
99-03450	Ron Andrews re: David R.	02/10/99	Wheel chair owned by a company	640.00	640.00
00-00342	Patrick O.	09/29/97	3 Levi's, 3 jackets, 2 sweaters, cassette	425.00	Open
00-00944	Lawrence H.	08/10/99	Crucifix, jewelry, money, meds	485.00	Open

Recommendations

Claims against the City should be reassigned by the City Attorney to either the Police or Health Department after the Sheriff determines the claim was incorrectly filed against his department. The reassignment should commence a new statute of limitations.

Required Responses

City Attorney's Office
 Sheriff's Department

B. Inmate Claims

Many inmates claim losses after being transferred from one jail to another for a number of reasons. Their personal property, usually commissary purchases, normally does not accompany them.

Inmate claims, without outside collaboration, are usually denied. For example, Claim Number 98-00120 was for a \$14 wedding band. The Sheriff's Department acknowledged receiving the ring, but was unable to locate it. The Sheriff's Department then recommended that the "claim be paid in the amount of \$100." The City Attorney's record shows the case was closed, but no amount was paid. On the other hand, Claim Number 99-01071 was paid because the inmate's father was able to produce the subscription invoice to Playboy Magazine®. Claim Number 99-01983 received money because a police officer went out of his way to write and confirm that the inmate had the food stamps when arrested. Another Claim Number 99-03450 was paid because the medical equipment supply company confirmed that the inmate was a user of their

wheelchair at the time he was arrested and placed in the Sheriff's Department's custody.

Recommendation

In those instances when a claim is for commissary items, the Sheriff's Department should, after verifying the purchase, generally reimburse the inmates with in-kind products. This procedure would short-circuit the costlier, full-blown investigatory claim process, which involves a host of personnel from the offices of the Sheriff, the Controller, and the City Attorney.

Required Response

Board of Supervisors
Sheriff's Department
City Attorneys Office

C. Property Room Work Space

Even though the property room is relatively new, its space is already insufficient to accommodate the demands of handling prisoner property. There is a heavy and varied demand put on this facility in the form of (1) female custody property; (2) the lack of booking resources at Southern Station and at the Tenderloin Headquarters that require those arrests to be handled by the IRC; (3) the needs for medical and biohazard material to be stored in special bags in a separate area; and (4) the approximately 55,000 arrests that occur each year. Furthermore, there are bulk storage problems in the facility for such odd sized property as wheelchairs, bicycles, walkers, etc.

Recommendation

Should space become available at the Hall of Justice, consideration should be given to allow the Property Room to use extra space so that any overflow of property can be better tracked and safeguarded. Consideration should also be given to bringing in experts to evaluate the Property Room to insure optimum use of available space.

Required Response

Board of Supervisors
Sheriff's Department
City Attorney's Office

Recommendation

The camera surveillance area should be expanded to cover the Property Intake window, thereby reducing opportunities for arbitrary and punitive behavior, which could be meted out by the constantly rotating staff. Consideration might also be given to conducting an occasional internal sting operation.

Required Response

Sheriff's Department

D. Operations Manual

The Civil Grand Jury detected carelessness with respect to details related to the Operations Manual:

- The Sheriff's Department was unable to provide any copies of manuals used prior to the current one.
- Nowhere in the current manual are there instructions about the disposition of unclaimed or non-returned property, yet the Sheriff's Department routinely conducts periodic inventories of "old" property and disposes of such property.
- Roman numerals were used to separate various major phases of staff responsibilities, but they were often incorrect. For example, VIX [sic] was used supposedly to represent both the ninth and tenth phases. These errors then triggered another series of numbering errors.
- Throughout the manual, i.e. (meaning "that is") was used when the correct abbreviation should have been e.g. (meaning "for example").
- Lastly, though minor, apostrophes, when used, were often used incorrectly and at other times were not used when they should have been.

There is no statistical evidence to justify the policy that property from all women in custody must be inventoried. In counting the female names listed on the City Attorney's Office report attached as Attachment 3, only 36 women filed claims during the surveyed five-year period and some of these inmates were repeat claimants. Forty-five percent of these claims were for amounts less than \$100, and only two of the claims were paid by the City.

When one Property Room deputy returned to his desk, we observed many loose dollar bills of various denominations in a locked, but unorganized desk drawer.

All of these combined elements leave the impression that the Sheriff's Department concentrates primarily on the confiscation of inmates' personal belongings and pays insufficient attention to the details of the safeguarding and return of those items to their rightful owners.

Recommendations

The Operations Manual should be reviewed, corrected, and revised. Among the many changes should be the elimination of the requirement that all women must have their property inventoried, a requirement not applied to male inmates. Beyond this, there should be a new section incorporating the issues and disposition of property not returned to the proper owner. Proper procedures for cash handling and safeguarding funds should also be described. Finally, earlier versions of the manual should be retained to protect the legal rights of the City and County.

Required Response

Sheriff's Department
 Commission on the Status of Women
 Sunshine Ordinance Task Force

III. GRIEVANCE PROCEDURE

SUMMARY

Section 1073 of California Code of Regulations Title 15, Division 1, Chapter 1, Subchapter 4, Article 6 establishes that at a minimum a local detention facility such as a county jail shall have written policies and procedures for the implementation of an inmate grievance procedure that includes the following:

1. a grievance form or instructions for registering a grievance;
2. resolution of the grievance at the lowest appropriate staff level;
3. appeal to the next level of review;
4. written reasons for denial of grievance at each level of review which acts on the grievance;
5. provision for response within a reasonable time limit; and
6. provision for resolving questions of jurisdiction within the facility.

The Sheriff's Department has such a policy and procedure entitled "Prisoner Grievance Policy and Procedure," also known as Procedure Number F-06 issued June 29, 1995 and revised September 17, 1997 (Attachment 4). While the written policy and procedure meets the requirements of Section 1073, the Civil Grand Jury investigated the Sheriff's Department's implementation of its policy and found that a procedure administered by an Ombudsman who is appointed by and reports to the Sheriff, and who effectively has little discretion or authority to resolve inmate grievances, cannot adequately protect the rights of inmates.

Consideration should be given to establishing an independent office that investigates and handles complaints against the Sheriff's Department, as the Office of Citizen Complaints (OCC) does for complaints involving the San Francisco Police Department.

BACKGROUND

Under the existing grievance system, every inmate has the following rights:

1. the right to grieve any administrative policy or procedure;
2. the right to be given a grievance form upon request;
3. the right to have the grievance logged and directed by the Ombudsman;
4. the right to receive a written response to the grievance;
5. the right to seek formal redress without fear of reprisal;
6. the right to receive grievance responses in a timely manner;
7. the right to appeal decisions to the Undersheriff, Chief, or appropriate supervisor as determined by the Ombudsman (see Policy and Procedure, Attachment 4).

The grievance process technically starts with an Action Request Form, a form which inmates use to request administrative action such as a money transfer or legal assistance or to make an initial complaint. Inmates are encouraged to fill out this form, but filing an Action Request Form is not a prerequisite to filing a formal grievance. A formal written grievance is filed when an inmate has a complaint about confinement conditions, including jail operation, personnel, or policies. Medical grievances are filed on different forms and handled by Department of Public Health personnel.

The next step in the grievance process is for inmates to request blank forms from deputies. The forms are kept in the jail offices and deputies are supposed to provide them to all inmates who request them. After filling out a form, the inmate gives it back to a deputy, who is then responsible for routing the grievance to the Ombudsman (usually through inter-office mail) or delivering a copy to the facility commander or nurse manager if the grievance is a medical grievance.

Inmates may also write directly to the Sheriff, the Ombudsman, or a facility commander, instead of using a form. However, that written correspondence must still be handed to a deputy in order to be delivered to the addressee.

Upon receiving a grievance, the Ombudsman dates it and assigns it a log number. He then refers it back for a response to the designated supervisor of the jail in which the complaining inmate is held. A designated supervisor is a department staff member designated by the facility commander to respond to the Ombudsman's office in connection with complaints. The designated supervisor responds to the grievance and returns the response to the Ombudsman, who is responsible for forwarding it to the inmate. The inmate then indicates satisfaction with the response or an intent to appeal by returning the grievance to the Ombudsman. Again, the inmate must do this by handing the form to a deputy who is supposed to send it back through inter-office mail. If the Ombudsman deems the appeal has merit, the Ombudsman forwards the appeal to the next higher uniformed level for a final administrative response.

The Ombudsman is not an administrator or a deputy. Although an employee of the department, the Ombudsman is supposed to act as a "neutral third party." The policy claims to give the Ombudsman authority "to investigate any act, omission, decision, practice or any affected policies and/or procedures within the Department." However, the policy goes on to state that the Ombudsman "cannot make policy or procedural changes, but may recommend changes to the appropriate administrator(s)," who choose whether or not to implement the recommendations.

The Ombudsman also has the power to inspect department facilities, to initiate grievances, to make referrals within the department and to other agencies, and to access department records. However, the Ombudsman is specifically excluded from accessing personnel, background, and internal affairs records. This exclusion is significant because the Ombudsman does not handle grievances that involve possible disciplinary action of deputies. Instead, the Sheriff's Department's Internal Affairs Division investigates complaints of alleged violations of law or departmental rules and regulations by staff.

If an inmate "grieves" a staff person, the Sheriff's Department handles the grievance as a personnel matter that is held to be confidential, meaning that an inmate will not be advised of the outcome of the situation. The Directions For Filing A Grievance (attached as Attachment 5), as typed on the back of the grievance form, states: "*If it is necessary*, a matter will be referred to Internal Affairs for an investigation." (emphasis added) The natural question arises: who decides when it is necessary? The written policy states that staff misconduct grievances are to be handled by the Ombudsman, designated supervisor, and "if necessary," the Sheriff's Department's Internal Affairs Division. In practice, the "handling" by the Ombudsman involves little more than forwarding such grievances directly to the designated supervisor and/or the Internal Affairs Division. The Ombudsman has no authority to decide these complaints and any appeals are forwarded to the Chief Deputy Sheriff.

Deputies have the power to "write up" an inmate, which, like a school demerit, leads to an inmate remaining in custody longer or being put into administrative segregation. Interviewed inmates stated the fairly common belief that filing grievances is a pointless

exercise, that only trivial grievances are resolved in the inmates' favor, and that they may later be "blacklisted" or "written up" by deputies for filing grievances.

According to the Sheriff's Department's Ombudsman, there were a total of 2,808 grievances filed during the period of September 1999 to June 19, 2000. A breakdown of the grievances by type is presented in Attachment 6. Medical grievances represent the largest category of grievance (454 of 2,808), with complaints about food the second largest category of grievance (152 of 2,808). Grievances related to the new telephone system (147) and jail staff (146) make up the third and fourth largest categories. It should be noted that the number of telephone-related grievances underreports the actual number of complaints about the new system as inmates also send these complaints directly to specially designated department staff, thereby bypassing the grievance procedure.

METHODOLOGY

The Civil Grand Jury visited the jails, interviewed inmates, Sheriff's Department personnel, and prisoner rights advocates, and reviewed official reports of the Department of Public Health, the State Board of Corrections, past civil grand juries, and the October 20, 1999 "Statement of Concern Regarding Current Conditions In the San Francisco County Jails" issued by the Ella Baker Center for Human Rights, as well as media coverage of the Sheriff's Department and the county jails.

CONCLUSIONS AND RECOMMENDATIONS

1. Inmates currently have to ask for grievance forms from deputies and return the filled-out forms to deputies to be mailed or put in a box for collection by the Ombudsman.

The potential for abuse in this process is clear. Not only does having to ask their jailers for grievance forms very likely deter inmates from filing grievances, but after having filled out the form, the inmate cannot be assured that the grievance will be delivered and received by the Ombudsman. Additionally, given the lag time between filling out a form and the delivery time for county government inter-office mail, by the time the Ombudsman receives a grievance form, the filing inmate is likely to have been released from jail as many inmates are released after three days.

Recommendation

The Ombudsman should make weekly rounds to each jail and personally hand out and receive grievance forms from inmates.

Required Response

Sheriff's Department

2. The office of the Ombudsman is essentially a perfunctory administrative function, primarily involving the receipt and processing of grievance forms, that does not provide for the adequate protection of the rights of inmates.

The Ombudsman ostensibly determines if an inmate has a legitimate grievance that requires a response. He receives grievances, logs them in, and forwards the forms to designated supervisors. When a supervisor responds, the Ombudsman returns the response to the inmate. According to the Prisoner Grievance Policy and Procedure, the Ombudsman can take further "action," but in practice this merely means forwarding an appeal to the next uniformed level. There is only one Ombudsman for all of the county's

jails. The present Ombudsman is a longtime non-uniformed employee of the Sheriff's Department. Several inmates to whom Civil Grand Jury members spoke complained that the Ombudsman does not interview inmates who file grievances and only talks to the deputies and facility commanders when investigating grievances. Some may perceive the Ombudsman's long-standing relationships with deputies and commanders as an asset to the position in that such relationships can facilitate the Ombudsman's investigations. However, in the view of the Civil Grand Jury, such a tightly-knit connection places inmates at a distinct disadvantage in the process and contradicts the need for independence and neutrality on the part of the person holding the position of Ombudsman.

Recommendation

A review of the Grievance Procedure, including the appointment of the Ombudsman by the Sheriff, should be conducted, with serious consideration given to the idea of creating an independent watchdog agency similar to the Police Department OCC, which investigates complaints against the police, or reinstating the Advisory Committee on Adult Detention to administer the grievance process.

Presently, there is no outside recourse for citizens who want to register a complaint against Sheriff's Department deputies for misconduct. The grievance procedure is limited to inmates while in custody and, as described above, is dictated by internal departmental policies and resolved within the department itself. However, grievances involving staff misconduct are precisely the kind of grievances that demand independent oversight. Because of the seriousness of the charges and the potential for harm to inmates who continue to be incarcerated under the care and supervision of Sheriff's Department deputies, these grievances should be handled by a truly independent office as opposed to an internal division of uniformed deputies.

According to one newspaper account, the Mayor himself has pledged to establish such an office to handle complaints about the conduct of Sheriff's Department deputies. The San Francisco Sunday Examiner and Chronicle reported on February 6, 2000 that during the Mayor's February "open door" day, the Mayor vowed to change the status quo after hearing a woman's story about her brother's alleged beating by deputies and her attempt to register a complaint to the OCC, which turned her away because the office only handles matters related to the Police Department.

Staffed by civilians who have never been San Francisco police officers, the OCC is supervised by the Police Commission and has the power to interview witnesses and officers, review police department and other records, and preliminarily dispose of complaints. The disposition of a complaint by the OCC can be appealed to the Chief of Police, who reviews the complaint for further action such as forwarding to the Police Commission for a formal administrative hearing. Even if the Chief does not choose to do so, the director of the OCC can elect to forward a complaint to the Police Commission.

An independent office set up like the OCC could receive and investigate complaints, make policy recommendations, engage in community outreach, and report on the Sheriff's Department. Inmates, family members, and concerned citizens would be assured of a public forum in which their grievances would be heard. The majority of inmates serving time in jail are non-violent offenders (the Sheriff's Department reports one-third of all inmates are in jail for drug crimes and another one-third for property-

related crimes such as theft and fraud) who will return to society and hopefully be rehabilitated. Rehabilitation requires that former criminals in part "buy into" and adhere to the social institutions and laws which we live by. They are far less likely to do so when they see the penal system failing to hold their own to account for misconduct.

Also, the Advisory Committee for Adult Detention should be reinstated to administer the grievance process for the county jails. Section 13.70 et seq. of the San Francisco Administrative Code establishes an Advisory Committee for Adult Detention that is charged to annually inspect City and County adult detention facilities. Pursuant to Section 13.75, the committee is directed to focus its inspection of those facilities on the "conditions of inmate employment, detention, care, custody, training and treatment." The Board of Supervisors last appointed members to the 8-member committee in 1994. In addition to the Board-appointed members, two members are appointed by the Sheriff, two by the presiding judge of the Superior Court, and two by the Health Commission. Given the diversity of members and the committee's inspection and reporting mission, the Advisory Committee on Adult Detention may be the appropriate body to assume the inmate grievance investigation and reporting responsibilities that now lie with the office of the Ombudsman.

Required Response

Mayor
Board of Supervisors
Sheriff's Department

ATTACHMENT 1

San Francisco Sheriff's Department
and
PCS Public Communications Services
"Inmate Telephone Service Agreement"
dated 04/20/99

ATTACHMENT 2

PCS "Rates" for Telephone Calls
Compared to Other Jails and Prison
dated 11/22/99

ATTACHMENT 3

Listing of Property Lost Claims for Sheriff's Department
from City Attorney's Office
dated 09/22/99

ATTACHMENT 4

San Francisco Sheriff's Department
Procedure Number F-06,

"Prisoner Grievance"
dated 09/17/97

ATTACHMENT 5
San Francisco Sheriff's Department
Prisoner Grievance Form
(revised 1/95)

ATTACHMENT 6
Letter from San Francisco Sheriff's Office,
to Civil Grand Jury Office,
Summary Report of Filed Grievances,
June 23, 2000