

MEETING DATE: February 13, 2020

AGENDA ITEM: C

TO: BSCC Chair and Members

FROM: Allison Ganter, Deputy Director, allison.ganter@bscc.ca.gov

SUBJECT: Facilities Standards & Operations Jail Inspection Process Changes:
Requesting Approval

Summary

This agenda item asks the Board to approve a plan to revise the current adult jail facility inspection processes to include greater local accountability to the Board for unaddressed items of noncompliance. This process will provide increased transparency in the local inspection process and, in some cases, result in more frequent inspections and follow up than under the current biennial cycle model. The Board will also adopt similar reporting process changes for juvenile detention facilities.

Background

The Board of State and Community Corrections is required to establish the minimum standards for the design, construction, and operation of local adult detention facilities. (Pen. Code, § 6030.) These minimum standards, set forth in Titles 15 and 24 of the California Code of Regulations, were initially established in 1944. The Board is required to review these regulations and make appropriate revisions biennially. (*Ibid.*) The adult regulations were last updated in 2017 and became operative on April 1, 2018. On April 11, 2019, the Board established an Executive Steering Committee to begin the current adult regulations revision process, which is ongoing. Additional recommendations for revisions to the Title 15 and 24 regulations are anticipated to be presented at the November 2020 board meeting.

Existing law requires BSCC staff to inspect each local adult detention facility in the state, at a minimum, biennially. (Pen. Code, § 6031.)

Existing law also requires that all inspection reports be posted on the BSCC website. (Pen. Code, § 6031.1, subd. (c).) In addition, the Board must submit a report to the Legislature in even-numbered years, including a list of facilities that have not complied with the Board's minimum standards. (Pen. Code, § 6031.2.)

Under current inspection practices, BSCC Field Representatives identify items of noncompliance and provide ongoing technical assistance to facility administrators while on-site to address items of noncompliance. In nearly all cases, administrators work with Field Representatives on a corrective action plan prior to the issuance of a final inspection report.

Subsequent to the on-site portion of the inspection, BSCC Field Representatives prepare a final report that lists any outstanding items of noncompliance. That report is posted on the BSCC website (Pen. Code, § 6031.1, subd. (c)) and sent to county officeholders, including the presiding judge of the county superior court, the county board of supervisors, and the local grand jury. (Pen. Code, § 6031.1, subd. (b).)

In the Governor's proposed FY 2020-21 budget, the Administration proposed "to strengthen the state's oversight of county jails." Specifically, the proposed budget provides:

The Board of State and Community Corrections will more actively engage counties regarding deficiencies identified as part of its inspections through its public board meeting process and by more frequent follow-up inspections. The Board will also provide additional technical assistance to those counties where issues are identified. Also, as part of the Title 15 jail standards review, the Board will make sure the standards are consistent with national best practices. (Governor's Budget Summary 2020-21. Page 142.)

To address the Administration's proposal, BSCC staff is proposing an approach that will bring further attention to local detention facilities that remain out of compliance with minimum standards and that fail to adhere to corrective action plans after a prescribed period of time.

Consistent with the Governor's proposal, BSCC staff recommends the following refinements to the jail inspection process:

- Immediately following the inspection, the Field Representative would meet with jail and facility administrators to discuss the identified items of noncompliance and to begin the process of delivering technical assistance to address issues of noncompliance. Field Representatives would provide jail and facility administrators with an Initial Inspection Report that outlines all items of noncompliance.
- The county will be required to provide a Corrective Action Plan (CAP) to the BSCC within 30 days of receiving the Initial Inspection Report. The CAP will identify how items of noncompliance will be corrected within 60 days of CAP implementation.
- No later than 60 days after the inspection, the Field Representative will complete a Final Inspection Report that will be posted to the BSCC website and will identify the remaining areas of noncompliance. Any items of noncompliance that have already been addressed from the Initial Inspection Report will be noted as "corrected" in the Final Inspection Report.
- If there are remaining items of noncompliance 60 days after the county has provided the CAP, those items of noncompliance would be posted on the BSCC website and reported to the Board.

- At each Board meeting, the Board would receive a report identifying items of outstanding noncompliance in the Final Inspection Reports and Corrective Action Plans.
- With respect to items remaining out of compliance after the 60-day CAP, the Board would determine whether the seriousness of the issues of noncompliance necessitate that the sheriff or director of the department of corrections appear at the next regularly scheduled Board meeting to provide the status on the local plan to address the issue(s).

Process Details for the Board to Discuss:

BSCC staff recommends a multi-step process:

1. Immediately following an on-site inspection, Field Representatives would present agency officials with an Initial Inspection Report during an exit briefing:
 - a. List of current items of noncompliance
 - b. Technical assistance recommendations to bring items into compliance
 - c. Notice that any issues corrected within 60 days will be noted on the final inspection report as corrected
 - d. A request for a Corrective Action Plan (CAP), to include a 60-day timeline for correcting deficiencies
2. The assigned Field Representative would follow up on the items of noncompliance by:
 - a. Accepting documentation of corrected items of noncompliance on a rolling basis while inspection report is being finalized
 - b. Accepting a CAP outlining the agency's plan for compliance if it cannot be achieved within the agreed upon time frame
 - c. Updating the BSCC information system to indicate which initial items of noncompliance are corrected prior to issuance of final report and what methods were used to correct the deficiency(ies), for example:
 - i. Policy update
 - ii. Procedural update
 - iii. Training provided
 - iv. Physical plant improvements
3. At the close of prescribed follow-up period and when the inspection report is final, the assigned Field Representative would notice the Sheriff or Director of the Department of Corrections that any outstanding items of noncompliance shall appear on the Final Inspection Report, will be provided to the Board at the next scheduled meeting, posted on the BSCC website, and will be delivered to the county board of supervisors, presiding judge, and grand jury
4. Field Representatives would continue to accept corrective actions and would update the BSCC website and FSO Deputy Director in preparation of the report to the Board

Board Reporting and Follow Up

1. At each Board meeting, FSO will provide the Board with a list of outstanding items of noncompliance by jail.
 - a. Staff would present items of noncompliance in general categories such as:
 - i. Significant: health, life, and safety impact. Policy and/or procedure must be updated ASAP to meet regulation
 - ii. Policy update needed: Procedure is compliant, but policy update is necessary
 - iii. Training update needed: Training may be required to achieve and maintain compliance
 - iv. Physical Plant issues
 - b. The local agency would receive notice of the pending Board report and potential action by the Board
 - c. Staff will provide the Board with the agency CAP, where appropriate.
 - i. Some agencies may not be able to correct items by the deadline, but will be actively working toward corrective action
2. Board actions may include:
 - a. Noticing agencies that if corrective action is not taken in the next 60 days that the Sheriff will be required to come before the Board to present the CAP and reasons for continued noncompliance
 - b. Following up on agency's CAP at the next scheduled Board meeting
 - c. Providing additional notice to County Board of Supervisors, Grand Jury, etc.
 - d. Requesting additional documentation on CAP

Recommendation/Action Needed

Staff recommends that the Board:

- Approve the proposed outline of steps to enhance the adult jail inspection process consistent with the direction in the Governor's Budget.
- Direct staff to update the juvenile inspection processes in a conforming fashion to add a similar layer of transparency and local accountability. As such, staff recommends the Board direct staff to develop a work plan and report back to the Board at the June 2020 meeting for final approval of an enhanced process for regular reporting and follow up on both adult and juvenile detention facilities to the Board.