

County of Santa Clara
Office of the County Executive

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August 14, 2017

To: Board of Supervisors

From: Martha Wapenski, Deputy County Executive

Subject: Off Agenda Report on the Creation of the Department of Correction

At the February 7, 2017 Board meeting, Item 16 was a report from County Counsel on the legally permissible options for the organizational structure of the County jails, which included a history of the creation of the DOC in 1987 and 1988. At the request of Supervisor Wasserman, the Board directed Administration to provide a report on the issues that caused the creation of the Department of Correction (DOC).

After a significant amount of research, reports from 30 years ago that outline the issues could not be located. Based on institutional memory, the main issue was a budgetary one. At that time, Sheriff Winter's budget was continuously overspent, and there was no will within the Sheriff's Office to control expenditures. Also, because there was overcrowding and a lack of single cells, there were limited options in terms of classification for inmates. Eventually the Court appointed a monitor to deal with the problems created by overcrowding. Due to the budgetary issues, and the pressure to build new facilities in San Jose and Elmwood to deal with the overcrowding issues, the Board created a DOC to operate the County jails.

Timeline:

1987 – County of Santa Clara adopted a resolution establishing the Department of Correction to be overseen by a Chief of Correction appointed by the Board. Soon thereafter a lawsuit was filed alleging the resolution was invalid.

1988 – Measure A was adopted by the electorate in June and added Section 509 to the County Charter. In September, the Court of Appeal upheld the County's establishment of DOC and the transfer of jail operations from the Sheriff to DOC.

1992 - A lawsuit was filed resulting in a California Supreme Court holding that the Chief of Correction did not have the authority to grant limited peace officer status to correctional officers.

1993 – To address the issue of limited peace officer status, the County placed DOC under the jurisdiction of the Probation Department.

1996 – Court of Appeal rejected the action that put DOC under the jurisdiction of the Probation Department.

1997 – The County and the Sheriff's Office entered into an MOU to resolve the issue of peace officer status.

1999 – The Legislature amended the Penal Code to settle the issue of peace officer status for correctional officers. It confirmed that County correctional officers are not peace officers, but were granted the power to perform some peace officer functions, and granted limited authority to carry firearms under the direction of the Sheriff.

2010 – As part of the 2011 budget, the Board approved a single-reporting model that divided jail functions between the Sheriff and DOC. The jail would continue to be operated by a Chief of Correction, but in conjunction and cooperation with the Sheriff's Office. Soon thereafter, a lawsuit was filed alleging that the reorganization violated the County Charter.

2012 – The County placed a proposed Charter amendment on the ballot, which the voters approved. The Board may convey jurisdiction over any or all jail operations to the Sheriff, DOC, or any agency that may lawfully exercise such jurisdiction.

Cc: Jeffrey V. Smith, County Executive
Miguel Marquez, Chief Operating Officer
Megan Doyle, Clerk of the Board
James Williams, County Counsel