

MEETING DATE: September 10, 2020

AGENDA ITEM: C

TO: BSCC Chair and Members

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

SUBJECT: Facilities Standards and Operation (FSO) Enhanced Inspections of Local Detention Facilities: Update: **Requesting Approval**

Summary

At the February 13, 2020 Board meeting, BSCC staff provided an overview of an enhanced inspection process to provide increased transparency in local inspection processes.

This agenda item provides the Board with a summary of the 2018/2020 Biennial Inspection Cycle, an overview of the upcoming 2020/2022 cycle and implementation of the enhanced inspection process, including a draft workflow for approval, and an update on the adult regulations revision process. Each of these processes have been impacted by the coronavirus pandemic and staff will discuss adjustments made as a result.

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.

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.)

Initial Analysis of the 2018/2020 Biennial Inspection Cycle

During the 2018/2020 Biennial Inspection Cycle, Facilities Standards and Operations (FSO) Field Representatives inspected 458 adult detention facilities and 103 juvenile detention facilities. As we have previously reported to the Board, after the COVID-19 shelter-in-place and travel restriction orders, some of the inspections were completed virtually, with Field Representatives reviewing documentation, and conducting interviews with staff to determine compliance. A summary of inspection findings is included as Attachment C-1. This

information is dynamic and may be updated prior to issuance of the biennial report to the legislature as agencies address items of noncompliance.

Most Common Items and Significant Items of Noncompliance in Adult Detention Facilities:

In the initial review of the adult detention facilities inspected in the 2018/2020 inspection cycle, FSO Field Representatives found that the most common items of noncompliance were related to:

- § 1029. Policy and Procedures Manual.
- § 1069. Inmate Orientation.
- § 1058. Use of Restraint Devices.
- § 1027.5. Safety Checks.
- § 1032. Fire Suppression Preplanning.
- § 1056. Use of Sobering Cell.

Field Representatives also identified items of noncompliance that were less common but may have impact on the health and safety of incarcerated individuals; those items include the use of safety cells, suicide prevention programs, and restraints on pregnant inmates.

Follow Up Site Visits and Technical Assistance:

Reasons for noncompliance vary and may be related to inadequate operations, lack of documentation, outdated policy and procedure, and physical plants needing improvement. Beginning with the 2020/2022 Biennial Inspection Cycle, as part of the enhanced inspection process, FSO Field Representatives will prioritize inspection and follow-up to agencies where there are significant or frequent items of noncompliance, and where there are items of noncompliance that have impact on the health and safety of individuals within the facility. Such agencies will receive site visits and technical assistance early and often in the inspection cycle. FSO Field Representatives will use data from the 2018/2020 cycle to determine which agencies will be prioritized.

Juvenile Detention Facilities:

Juvenile Halls are required to maintain compliance with Title 15 minimum standards to remain suitable to hold youth in secure detention. (Welf. & Inst. Code, § 209, subd. (d).) There are currently no outstanding items of noncompliance in juvenile detention facilities. Although initial items of noncompliance were identified during inspection, these items were corrected and addressed through technical assistance.

Enhanced Inspection Process

Prior to the 2020/2022 Biennial Inspection Cycle, which began on July 1, 2020, BSCC Field Representatives identified items of noncompliance and provided ongoing technical assistance to facility administrators while on-site to address items of noncompliance. In nearly all cases, administrators would work with Field Representatives on a corrective action plan prior to the issuance of a final inspection report, and many items of noncompliance would be addressed. Under the enhanced inspection process, there will be specific timelines for the implementation of corrective action plans. Final inspection reports and biennial reports to the Legislature would outline remaining items of items of noncompliance.

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 proposed an approach to 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. A flowchart outlining the workflow for this process is in Attachment C-1.

Beginning with the 2020/2022 Biennial Inspection Cycle, Field Representatives will provide facility administrators with an initial inspection report at the close of the on-site inspection. The initial inspection report will identify outstanding items of noncompliance, which will start a clock for agencies to address these items.

Upon receipt of the initial inspection report, agencies will have 30 days to either correct outstanding items of noncompliance or submit a corrective action plan (CAP) outlining how items will be addressed. Those agencies submitting a CAP must outline how items will be corrected within 60 days of submission of the CAP. Agencies failing to submit a CAP or failing to correct items of noncompliance within 60 days will be asked to appear before the Board at the next regularly scheduled meeting to discuss the circumstances surrounding items of noncompliance.

The Board will be provided with an updated list of items of noncompliance at each meeting to remain apprised of facility inspection status; members will have the opportunity to discuss how to approach significant items of noncompliance that impact the health and safety of individuals in local detention facilities.

In response to the coronavirus pandemic, FSO Field Representatives will also be requesting copies of agencies' communicable disease policies to determine compliance with related minimum standards.

Adult Regulations Revision Process:

After a pause in proceedings due to statewide shelter-in-place orders and travel restrictions, the FSO Team is relaunching the adult Titles 15 and 24 regulations revision. On April 11, 2019, the Board established an Executive Steering Committee (ESC) to begin the adult Titles 15 and 24 regulations revision process. In early 2020, the FSO Team began to convene subject matter workgroups at the direction of the ESC. Two subject matter workgroups were able to meet in person before pausing due to the coronavirus pandemic. Beginning on September 16, 2020, the remaining subject matter workgroups will be meeting via Zoom. All meetings will be open to the public; information will be available on the BSCC website.

Recommendation/Action Needed

Staff recommends that the Board:

- Approve the proposed enhanced inspection process workflow.

Attachments

C-1 – Inspection Flow Chart