San Diego County Sheriff's Department

William D. Gore, Sheriff

Michael R. Barnett
Undersheriff

August 3, 2020

Hon. Nathan Fletcher, Supervisor
San Diego County Board of Supervisors
1600 Pacific Highway
San Diego, CA 92101

VIA: ELECTRONIC DELIVERY

Dear Supervisor Fletcher,

After reviewing your Board Letter and agenda item for the Board of Supervisors meeting set for August 4, 2020, I am compelled to set the record straight on several issues. These issues are of vital importance so you, your colleagues on the Board, and the citizens of San Diego are accurately informed.

The responsibility for operating jails in California is placed solely upon the sheriff who is required by statute to take charge of, and keep, the county jail and the inmates in it. It is because sheriffs are elected that they are functionally independent from control by county boards of supervisors in the performance of running the jails.

Under California law, the Board of Supervisors has no direct authority over the jail. Case law is very clear the Board not only has no duty, but no right to control the *operation* of the jails. As such, the Board cannot oversee *operations or set policy.*

That said, the Board of Supervisors does have statutory function as it relates to the county jail. Specifically, the Board of Supervisors is required to provide the Sheriff with food, clothing, and bedding for inmates and to pay the expenses incurred in keeping inmates. The law specifically states that the expenses incurred in the support of persons charged with or convicted of a crime and committed to the county jail and the maintenance therein are county charges.

As the operator of the county jail, I am responsible for developing and implementing policies pertaining to the operation of the jails, and the care and custody of the inmates therein. This responsibility includes the provision of medical care for inmates. In fact, the Penal Code recognizes that a county sheriff may contract with providers of health care services for the care of inmates.

As Sheriff, I am consistently looking for ways to provide the highest level of medical services for inmates in the County jail system. It is with this in mind, that I put forward a board letter for the August 4 Board agenda to seek concurrence, to do a Request for Information (RFI) to obtain

information from potential service providers as to how we might increase the level of care in the county jail system.

The analysis you set forth in your separate board letter which seeks to direct the Chief Administrative Officer to direct the Health and Human Services Agency to develop a proposal to handle all aspects of inmate medical care and delay any action on the RFI proposed by my office contains several inaccurate statements and conclusions. In order that all concerned parties be properly and accurately informed I offer the following clarifications.

You set forth an argument that contracted services are more likely to engender liability for the County than the current model in place in San Diego. You cited examples in Santa Barbara and Alameda Counties among others. In fact, a closer and more objective analysis of the lawsuits you cite reveals that it is often county employees who are primarily at fault, not contracted services. Lawsuits and liability payouts are an unfortunate reality of any health care delivery system. I do not expect such lawsuits to go away under any model which may be ultimately decided upon. I do insist however, that whatever model is chosen be intensely focused on improving clinical outcomes and reducing liability for the taxpayer.

In the OVERVIEW Section, you wrote, *"The current system of care is not working in San Diego County detention facilities."*

That is not true. Let me be clear, current Medical Services Division (MSD) staff do exceptional work every day in a very challenging environment. MSD staff have always risen above challenges, responded accordingly (especially during the current COVID-19 pandemic), and continued to work in the best interest of the inmates' needs.

The MSD, and in fact my entire Department, have been diligently working toward the goal of attaining National Commission on Correctional Health Care (NCCHC) accreditation which will provide for enhanced access to, and quality of, care for all. Over the past nineteen months, we have implemented many of the best practices relating to: "Mental Health Screening and Evaluation", "Medically Supervised Withdrawal and Treatment", and "Clinical Performance Enhancement". Many of our current practices reflect the standards set forth by NCCHC which is considered the gold standard in health care delivery for incarcerated individuals.

The process of reviewing the information provided by any vendors that may respond to our RFI and comparing it to the current service model will be of enormous value to the Board, those who experience incarceration, and county residents as it will serve to improve clinical outcomes and reduce liability for taxpayers. It may very well be that our current processes and model are validated, and we stay with our proven model and perhaps even improve upon it.

You further stated, *"Health outcomes are poor for incarcerated individuals, morale is low among staff, and sworn officers are forced into a position to oversee medical decisions."*

The facts do not support these allegations. The Sheriff's Department has worked diligently to improve timely access to care for our inmate population. I have sought out experts for review of our practices with the intent of improving health care delivery and patient outcomes which includes multi-disciplinary groups, quality improvement and assurance reviews, as well as critical incident reviews.

Sworn staff do not play any role in clinical decision making, patient treatment or care. The only instance where sworn staff are involved in medical encounters or applications is within the scope of their training and duty as first responders.

In the BACKGROUND section, you stated, *"In the Sheriff's response to the COCHS report on April 13, 2020, he answered that it was his goal that "our correctional health system grow beyond an acute and emergent care model" and indicated support for a more continuous system of care that connected to community health resources. "I* (the Sheriff) *support the concept of creating an in custody medical and mental health service delivery system that transcends the confines of the jail environment and is seamlessly connected to services in the community."*

This goal is echoed in Agenda Item One, where I state, "To adequately care for this inmate population, a comprehensive system of medical and mental health care services is paramount to ensure the safety, health, and well-being of the inmate population."

I reiterate that goal today. The NCCHC recommends integrating medical, mental health, dental, and nursing services to improve clinical outcomes. NCCHC does not require any specific agency or company lead that integration. NCCHC acknowledges that such integration is a "complex… field of correctional health care."

Needless to say providing high quality patient care needs to be balanced with public and facility security. The Sheriff's Department is committed to streamlining inmate medical and mental health care from the time of arrest, to incarceration, and subsequent release back into the community.

Your letter further asserts, *"Completely outsourcing medical care of incarcerated individuals to a private company, will not achieve the Sheriff's stated goals."*

This assumption on your part is not factually supported. It is impossible to responsibly reach such a conclusion without sufficient research, which my proposed RFI and any subsequent RFP will be part of. MSD is currently operating with a hybrid service delivery model of direct care employees and contracted health care staff. Utilizing a comprehensive system of medical and mental health care services is paramount to ensure the safety and health of inmates, reduce recidivism, and provide for the overall well-being of our incarcerated population both while in custody and post-release. If there is a better way to provide high quality inmate health at a greater value for the taxpayer, I want to know about it. The Department spends almost $90 million dollars every year on inmate medical and mental health care. More than $20 million is already devoted to contracted services for inmate care.

The only way to find out if our investment of public funds is providing the highest value is to explore the emerging health and mental health services available in the corrections industry. These models currently work in other detention settings across our state and our nation, including more than thirty California counties. A similar model is known to be successful in our own county in serving the in-custody juvenile population as it relates to comprehensive medical services.

The statement in your letter that, *"(t)hese departments are chronically short-staffed, and employees must fulfill substantial amounts of mandatory overtime to make up those staffing gaps,"* is partially correct. MSD is routinely "fully staffed" in that we are always filling authorized positions as they become vacant. However, the number of budgeted positions is inadequate under the current service model to meet the needs of our ever-expanding inmate population. A substantial investment of general purpose revenue is needed to bring staffing to an adequate level and meet our goal of a primary care health care model.

The advent of criminal justice realignment in 2011 shifted a large share of medical and mental health care responsibility to every county in the state. Our aging population, along with the longer-term population brought about by the shift in incarceration responsibilities from the state to the counties, has created unique challenges that require more emphasis on chronic disease care and increased need for preventative care. My clinical staff (nurses, LVNs, and mental health clinicians) have been required to work overtime for the past year to meet this service demand. Ensuring we have the proper staffing to ensure quality medical and mental health care for our inmate population continues to be a priority and meeting such a need with mandatory overtime is not sustainable.

Your statement, *"Our County workers also share that the currently disjointed system of existing contract workers results in information sharing and oversight challenges,"* is partially correct. The Sheriff's Department utilizes a combination of employees and 26 different contractors to provide inmate medical services. I agree this system creates oversight challenges. Working with a single comprehensive contractor may very well streamline operations, provide for economy of scale, and allow for the best possible patient care, coordination and collaboration. This is exactly why we are committed to exploring all other options in the correctional health care field. We believe utilizing a comprehensive system of medical and mental health care services is paramount to ensure inmate safety and health, reduce recidivism, and provide for the overall well-being of our inmate community and public safety.

Your baseless allegation, *"Seemingly to tighten processes at the jails after years of scrutiny, Sheriff policies now require that nurses run medical decisions by sworn, custodial officers before contacting doctors and other medical professionals,"* is false. The truth is the exact opposite. The Detention Services Bureau is composed of over 2,000 employees all of which are expected to work together to provide professional detention services in a safe and humane environment. My medical and mental health staff make all clinical decisions regarding patient care. Sworn staff have no role or responsibility in care and treatment decisions. During clinical encounters, deputies are only responsible for maintaining facility security and a safe environment for all. Over the last several years,

many policies and practices have been modified to meet NCCHC standards. As recommended by experts and advocates we have worked with in recent years, all of my policies make it very clear that clinical decisions are made by qualified medical and mental health professionals. Policies which previously authorized sworn personnel to be involved in mental health care practices and decisions were revised to ensure the role of sworn personnel as stated above was clearly identified. Numerous trainings related to these policies and practices have been presented to both sworn and clinical staff over the last eighteen months.

The letter goes on to assert, *"Sworn staff in the detention facilities are overseeing medical decisions and creating medical policies. This chain of command is unique to the San Diego County system and leads to worsening care, loss of life, and frustration and low morale among medical staff."*

As previously outlined, this statement is inaccurate. Sworn staff are not involved in medical decisions or in the creation of clinical policies. There is no Department or Detention Services Bureau policy that indicates otherwise. Sworn staff are of course expected to render lifesaving aid in lieu of a qualified medical professional prior to such staff arriving on scene, and to support the clinical staff upon their arrival to provide for a positive outcome.

A sheriff's commander has always had oversight of the Medical Services Division. Recently, the Detention Services Bureau temporarily assigned a captain to assist with the overall management of the division. In addition, a lieutenant and sergeant have been temporarily assigned to assist with the various initiatives related to the division's work towards achieving NCCHC accreditation. The sworn staff assigned to MSD are not involved with clinical policy decisions. The Division relies on the chief medical officer (a medical doctor), director of nursing (a registered nurse), and mental health director (a mental health clinician) to provide clinical direction to the staff assigned within the Division, contracted clinical staff, and to the Detention Services Bureau. This clinical leadership team simply relies on their sworn partners to assist with the implementation of these clinical decisions through training, creation of sworn policy to mirror clinical policies, communication with other sworn members and with the overall project management of the NCCHC initiative and our suicide prevention efforts. This type of 'chain of command' is the norm in the correctional health care field.

In the RECOMMENDATION(S) section you recommended:

1) Direct the CAO to discontinue any actions related to outsourcing medical services in San Diego County detention facilities until the Board receives a report from the CAO analyzing an HHSA led model, thereby informing the process before taking action on any related requests.

2) Return to the Board with the evaluation in 180 days.

I do not support your recommendation to delay the request for an RFI and/or a Request for Proposal (RFP). HHSA will have the opportunity to respond to the RFI, and the subsequent RFP if one is issued. I look forward to reviewing such a proposal fairly and objectively once it is received. There

is no reason to delay the process for 180 days. If another potential contractor or provider asked for such a delay, I would not support it either. Everyone has the same amount of time to respond to the RFI and any subsequent RFP. To delay the process only delays the necessary fact-finding to ensure the inmates in my custody receive the highest quality health care services at the best value to the taxpayer.

If you or any of your Board colleagues have any further questions, please call upon me or Undersheriff Michael Barnett at any time.

Sincerely,

William D. Gore

William D. Gore, Sheriff

WDG:

cc: Chairman Greg Cox
Vice Chairman Jim Desmond
Supervisor Dianne Jacob
Supervisor Kristin Gaspar
Chief Administrative Officer Helen Robins-Meyer