

5. Approve an Appropriations Transfer Request of \$477,289 to appropriate funds from the Department of State Hospitals necessary to implement the Jail-Based Competency Treatment program and to recognize unanticipated revenue (4/5 vote required).

SUMMARY:

The Solano County jail population includes inmates who have been found Incompetent to Stand Trial (IST) due to their inability to understand or effectively assist in their own defense during a criminal justice proceeding. Pursuant to California Penal Code Section 1370, if a defendant is found mentally incompetent, the trial, the hearing on the alleged violation, or the judgement shall be suspended until the person becomes mentally competent. As of October 31, 2018, Solano County had 13 IST defendants. Over the last several months this number has been as high as 24.

These inmates are referred to the Department of State Hospitals (DSH) to receive treatment to restore competency. However, DSH does not have sufficient capacity to serve all ISTs, resulting in lengthy wait lists, and is not anticipating an increase in capacity at this time. As a result, DSH has the opportunity to contract with counties to provide a Jail-Based Competency Treatment (JBCT) in their respective jails with State funding. The Sheriff's Office recommends pursuing this partnership as it would shorten delays in legal proceedings when a defendant is IST, yet remains housed in a Solano County jail due to lack of space at a State hospital.

Most of the services needed to restore the inmates to competency would be provided by the current provider of inmate medical services in the jails, California Forensic Medical Group (CFMG). The current contract with CFMG provides basic medical, mental health, and dental care services for an average daily population (ADP) of 950, and expires on June 30, 2019. In order to provide time for implementation and evaluation of the JBCT, and after consultation with the County Administrator's Office and Central Services Purchasing, the Sheriff's Office is requesting to amend the Contract with CFMG to extend it by two years, through June 30, 2021, and to include the provision of competency services under the proposed JBCT program. The Amendment would incorporate JBCT services, as well as reflect a price reduction due to a new lower ADP base of 800, which is more aligned with current jail population trends.

The Sheriff's Office is also requesting to add 3.0 FTE Correctional Officers to support the JBCT program.

FINANCIAL IMPACT:

The proposed agreement with DSH has a total maximum revenue of \$7,238,669 for the period of October 15, 2018 through October 14, 2023. DSH will guarantee reimbursement to the County of Solano for 10 inmates at a rate of \$388.61 per inmate per day for the duration of the agreement and will provide up to \$142,650 for one-time facility improvement costs and start-up costs.

The daily reimbursement rate was calculated as an average rate over the five-year agreement term and covers all program costs, including: contracted service costs from CFMG for salary and benefits of CFMG program staff, medications, laboratory services, and medical supplies; County costs for 3.0 FTE Correctional Officers to provide program support, security, and custodial care; costs for clothing, bedding, food, personal hygiene; transportation costs to and from medical appointments, and court appearances; program materials and supplies; and costs for basic medical, mental health, and dental services.

The Sheriff's Office expects to receive up to \$846,034 in revenue under JBCT for FY2018/19 with estimated expenditures of \$777,980, including up to \$142,650 for reimbursement of one-time costs to include: staff recruitment; training; policy development; the purchase of desks, tables, chairs, and computers; installation of data and phone lines; and for minor facility repairs and paint. Projections using the five-year average daily rate of \$388.61 reflect excess revenue over expenditures in Years 1 and 2, with break-even in Year 3, and expenditures in excess of revenue in Years 4 and 5. The Sheriff's Office would work with the Auditor-

Controller's Office and County Administrator's Office to retain excess funds collected in Years 1 and 2 as deferred revenue to offset expenditures in Years 4 and 5 when expenditures exceed revenues to ensure there is no impact to the General Fund.

The proposed amendment with CFMG extends the contract by two years through June 30, 2021 and increases the maximum compensation by \$24,612,668. The amount includes \$2,432,906 for enhanced mental health services under the JBCT program and \$22,179,762 for the two-year contract extension for basic medical, mental health, and dental care services. The amount reflects a \$1.2M negotiated reduction in cost over the previous contract amount due to the lower inmate population. The amendment adjusts the annual base compensation for services down to \$10,749,655 for an ADP of 800, with per diem adjustments of \$6.85 for quarterly ADP when the ADP exceeds 850 or is less than 750, with no population ceiling or floor for purposes of calculating per diem adjustments.

The Sheriff is requesting 3.0 FTE new Correctional Officer allocations to support the JBCT program. The total annualized cost for these positions is \$331,668 or \$110,556 each, which would be covered completely by the JBCT program revenue. At mid-year, the CAO will review vacancies within the Sheriff's Office to determine if there is room to delete other positions to mitigate the impact of the addition.

The Appropriation Transfer Request would increase appropriations by \$477,289 to open an in-house JBCT program within the Justice Center Detention Facility. The new appropriations would be entirely offset with unanticipated revenue from the DSH. Therefore, Board approval would not impact the County General Fund.

The cost associated with preparing the agenda item is nominal and absorbed by the department's FY2018/19 Adopted Budget.

DISCUSSION:

The California Department of State Hospitals (DSH), in response to the lack of available bed space at the state hospitals for defendants declared IST, developed a successful JBCT pilot program in 2011 and later expanded it to include several California counties. JBCT programs provide effective treatment to those felony defendants deemed IST with the goal of restoration. The program quickly facilitates competency through intensive medication treatment, group and individual therapy which includes learning experiences involving discussion, reading and video, role play, and mock trials. The 60-day program cycle allows flexibility for JBCT Patient Inmate turnover as many inmates are expected to be returned to competency before 60 days while some may need more time in the program. This model in other county jails also administered by CFMG has been proven to have a 94% restoration rate.

The program would be housed at the downtown Justice Center Detention Facility adjacent to the inmate medical area. Although the term of the Agreement with the State begins October 15, programming is anticipated to start January 1, 2019 to allow sufficient time to purchase and install desks, tables, chairs, and computers, install data and phone lines, and complete minor facility repairs and paint. The program would house a monthly average of 10 Solano County JBCT Patient Inmates in single-cell beds. Initially, the Sheriff's Office intends to enroll male inmates only but is open to adding female inmates once the program has been established and the potential for fraternization issues vetted. Female inmates may still be placed in JBCT programs in other counties to provide equal opportunity for restoration.

The proposed Solano County JBCT program would primarily be staffed by the following CFMG employees: 0.5 FTE Program Director, 0.2 FTE Psychiatrist, 0.6 FTE Psychologist, 1.0 FTE Mental Health Clinician, 1.0 FTE Competency Trainer, and a 1.0 FTE Administrative Assistant. Additionally, the County is requesting to provide 3.0 FTE Correctional Officers. A brief description of their responsibilities is enumerated below.

Program Director. This position would provide oversight of the JBCT program to ensure delivery of services is appropriate, efficient, and successful. The Program Director would supervise all CFMG staff

and would report to the Sheriff's Criminal Justice Program Services Manager as well as the Sheriff's Office Health Services Manager to ensure compliance with the agreement with DSH and evaluate outcomes.

Psychiatrist. This position would be on site one day per week and serve as the clinical authority and treatment team leader responsible for prescribing medication, management, and stabilization and monitoring of the patients in the program. The Psychiatrist would conduct a thorough medication evaluation of the Patient Inmate upon admission and would be responsible for providing progress summaries and declarations of competence to the courts. The Psychiatrist would meet with each Patient Inmate weekly.

Psychologist. This position would be on site 3 days per week and would be responsible for the competency assessment, and implementation and monitoring of each Patient Inmate's restoration plan. Upon admission, the Psychologist would administer a battery of individualized psychological assessments and tests of the Patient Inmate to evaluate functioning, likelihood of malingering, and current competency to stand trial.

Mental Health Clinician. This position would be responsible for individual and group therapy sessions focusing on developing coping techniques or other therapeutic strategies that may benefit the patient throughout the restoration and court process. The Mental Health Clinician meets Patient Inmates in individual therapy sessions for one to two sessions weekly for at least one hour each session.

Competency Trainer. This position would be responsible for teaching basic legal concepts and helping the Patient Inmate understand their legal situation. The Competency Trainer would apply and adjust Patient Inmates' individualized training plans based on each individual's developmental ability level, assessment results, the nature of his/her case, and unique learning style.

Administrative Assistant. This position would administratively support all JBCT staff through the responsibility of all paperwork, reports, and summaries that may be requested as part of the Patient Inmate's participation in the program and/or legal proceedings. The Administrative Assistant would collect and maintain statistical data as required by the agreement with DSH and assist in HR and payroll functions for CFMG staff.

Correctional Officers. One Correctional Officer would be assigned to the JBCT program, working during JBCT program hours and reporting directly to the Sheriff's Criminal Justice Program Services Manager. This Officer would support CFMG staff as a part of the multidisciplinary team interacting with JBCT program inmates that provides guidance related to activities of daily living, development of programmatic incentives, assisting inmates with behavioral issues, and providing information related to jail and court procedures. Two Correctional Officers would provide supervision and custodial care to the JBCT Patient Inmates during non-JBCT program hours.

CFMG staff would develop individualized treatment plans for each JBCT Patient Inmate, identifying and addressing specific issues that contribute to their IST condition. The treatment plan would apply specific treatment interventions based on the Patient Inmate's psychiatric condition, level of functioning, and legal context. Patient Inmates would receive daily group and individual treatment sessions. Group treatment sessions would be conducted in multiple learning formats by multiple staff to each Patient Inmate. For example, a simple lecture format may be replaced with learning experiences involving discussion, reading, video, and experiential methods of instruction, such as role-playing or mock trial depending on the needs of the Patient Inmate. Educational materials utilized in both group and individual therapy sessions would address criminal charges, severity of charges, sentencing, pleas, plea bargaining, roles of the courtroom personnel, court room behavior, and probation and parole. Individual treatment sessions may be used to check-in with Patient Inmates and/or discuss key legal elements of the individual's case that may be too sensitive for group discussion.

IST defendants who have been restored to competency would remain at the facility until they are able to continue with their court proceedings. CFMG staff would develop a release plan to transition these defendants to the general inmate population where they would receive services under the broader CFMG contract and would continue medication treatment as prescribed without disruption. CFMG would meet with the JBCT Patient Inmate prior to the transition to communicate the plan for release and ongoing mental health care services.

ALTERNATIVES:

The Board of Supervisors could choose not to approve the agreement between the County of Solano and the California Department of State Hospitals; however, this action is not recommended as those deemed IST currently wait in our jails more than 90 days for placement at a state hospital to begin return-to-competency treatment. Without an in-house JBCT program, these inmates will further deteriorate while awaiting placement instead of receiving the necessary treatment to continue their legal proceedings.

The recommendation to approve the proposed amendment to the Contract with CFMG is contingent upon approval of the Agreement with the State DHS, otherwise the Board may approve a modified amendment that reflects the decrease in the ADP base thereby reducing costs for basic medical, mental health, and dental services.

OTHER AGENCY INVOLVEMENT:

The California Department of State Hospitals standard agreement was used but includes agreed upon changes requested by the Sheriff's Office. County Counsel has reviewed the agreement between the County of Solano and the California Department of State Hospitals and the amendment to the Agreement between the County of Solano and California Forensic Medical Group, Inc. and concurs with the recommendations. The County Risk Manager has reviewed the State Agreement and confirms the County possesses adequate insurance to meet State requirements for the JBCT program; and reviewed the amendment to the Contract with CFMG and reaffirmed the insurance provision and related liability limits.

The County Administrator's Office formed a work group comprised of representatives from the County Administrator's Office, County Counsel, Sheriff's Office, General Services, Health and Social Services, Department of Information Technology and Human Resources to develop an implementation plan to ensure that the Sheriff's Office is ready to open the JBCT program by the anticipated start date.

CAO RECOMMENDATION:

APPROVE DEPARTMENTAL RECOMMENDATION