

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

RESOLUTION NO. 2007- 118

A RESOLUTION ESTABLISHING A MANAGEMENT PROTOCOL AT THE SANTA FE COUNTY ADULT DETENTION FACILITY; VESTING AUTHORITY FOR OPERATION AND MANAGEMENT OF THE FACILITY IN THE JAIL ADMINISTRATOR; CLARIFYING THE COUNTY SHERIFF'S ROLE IN OPERATION AND MANAGEMENT OF THE FACILITY; MAKING AMENDMENTS TO RESOLUTION NO. 2007-60 TO CLEARLY DEFINE THE COUNTY SHERIFF'S RESPONSIBILITY TO INVESTIGATE ALLEGED CRIMINAL CONDUCT AT THE ADULT DETENTION FACILITY.

WHEREAS, pursuant to State Law, NMSA 1978, Section 33-3-1(A)(1865-66)(as amended), county jails are "... under control of the respective sheriffs, independent contractors *or* jail administrators hired by the board of county commissioners ..."

WHEREAS, the use of the disjunctive in Section 33-3-1(A) indicates that county jails are managed either by the County Sheriff, an independent contractor, *or* a jail administrator appointed by the Board of County Commissioners;

WHEREAS, the Board of County Commissioners has appointed a Jail Administrator for Santa Fe County Adult Detention Facility (hereinafter referred to as "the Facility");

WHEREAS, the Facility, and the Jail Administrator, operate under the umbrella of the Santa Fe County Corrections Department and the Director of the Corrections Department is a person appointed to that position by the Board of County Commissioners;

WHEREAS, as the Board of County Commissioners has appointed a Jail Administrator for the Facility, Section 33-3-1(A) vests responsibility for operation and management of the aforementioned Facility in the Jail Administrator;

WHEREAS, NMSA 1978, Section 33-3-9(A)(1969)(as amended) vests in "... the sheriff *or* [the] jail administrator ..." the right and responsibility to grant any person imprisoned in a county jail a deduction of time from the term of his sentence for good behavior and industry, sometimes known as "good time;"

WHEREAS, the award of good time to incarcerated persons who exhibit good behavior is a critical component of properly maintaining order in a jail environment, and is a tool that must be possessed by the jail administrator to ensure order, safety and protection of persons who are incarcerated;

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WHEREAS, the use of the disjunctive in Section 33-3-9(A) indicates that the discretion to award good time to inmates of the Facility rests in the jail administrator;

WHEREAS, hiring and firing employees at the Facility is vested in the Board of County Commissioners, the Santa Fe County Manager and the Santa Fe County Corrections Department and the Jail Administrator;

WHEREAS, an integral part of managing a county jail is the ability to manage, hire and fire employees, and, similarly, to establish criteria for employment and continued employment of employees, including determining and making judgments about the background and prior employment history of prospective employees;

WHEREAS, the aforementioned New Mexico statutes vest the jurisdiction to make these decisions in the Board of County Commissioners, the County Manager, the Santa Fe County Corrections Department and the Jail Administrator;

WHEREAS, NMSA 1978, Section 33-3-19 (1909)(as amended) permits a jail administrator to employ inmates to work in or outside of a jail on public projects so long as the inmates work no more than eight hours in any twenty-four hour period and not on Sundays or legal holidays, and provides that inmates employed in such work are eligible for good time pursuant to Section 33-3-9(A) as a matter of law;

WHEREAS, a Jail Administrator must exercise discretion and judgment in performing this function, a Jail Administrator must be able to consider many aspects of an inmate's character, including the charges pending against the inmate, the inmate's history and behavior within the facility, and the inmate's classification;

WHEREAS, the aforementioned New Mexico statutes vest the jurisdiction to make these decisions in the Jail Administrator appointed by the Board of County Commissioners;

WHEREAS, NMSA 1978, Section 33-3-24 (1981) provides that "... the sheriff of any county *or* the jail administrator of any jail with the approval of the board of county commissioners ... may establish a prisoner-release program ..." as set forth in that Section;

WHEREAS, such programs are necessary to control the population of jails and therefore preserve public safety by avoiding conflict within a facility, but a Jail Administrator must ensure that inmates assigned to prisoner-release programs are selected consistent with public safety and the Jail Administrator must therefore exercise discretion and judgment in performing this function and must be able to consider many aspects of an inmate's character, including the charges pending against the inmate, the inmate's history and behavior within the facility, and the inmate's classification;

WHEREAS, the use of the disjunctive in Section 33-3-24 clearly vests the discretion with respect to a prisoner-release program with the Jail Administrator of the Santa Fe County Adult Detention Facility with approval of the Board of County Commissioners;

WHEREAS, NMSA 1978, Section 33-3-28(A)(1984) provides that persons employed by a jail "... shall have the power of a peace officer with respect to legal custody and enforcement of laws when on the premises of a local jail ..." and are "... deemed [to be] law enforcement officers ..." for purposes of the New Mexico Tort Claims Act, it appears that employees of the Santa Fe County Adult Detention Facility have authority to take all appropriate actions with respect to inmates in custody;

WHEREAS, internal investigations of incidents at the Santa Fe County Adult Detention Facility are being performed by the Office of Professional Standards of the Corrections Department pursuant to the Facility Investigations Policy promulgated by the Director of the Corrections Department;

WHEREAS, many incidents that occur in jails do not involve allegations of criminal conduct, but the incidents that do involve allegations of criminal conduct require a referral to the County Sheriff and other appropriate law enforcement agencies to ensure proper investigation and prosecution, and law enforcement agencies should thereafter determine who has the investigating authority based upon the customary interagency protocols;

WHEREAS, some incidents that occur in jails that appear initially not to involve criminal conduct may be found, after preliminary investigation by the Office of Professional Standards, to involve criminal conduct, and these cases also require a referral to the County Sheriff and to other appropriate law enforcement agencies to ensure proper investigation and prosecution, and the law enforcement agencies should thereafter determine who has the investigating authority based upon the customary interagency protocols;

WHEREAS, investigations performed by the Office of Professional Standards must be performed by individuals with familiarity with the corrections environment and those investigators must refer matters to the County Sheriff and other appropriate law enforcement agencies should the facts discovered indicate a violation of criminal law, and the law enforcement agencies should thereafter determine who has the investigating authority based upon the customary interagency protocols;

WHEREAS, on February 5, 2004, the Multi-Line Pool Board and the Workers Compensation Board issued their "Joint Policy on Autonomy of Detention and Sheriff Operations" which provided:

"The Multi-Line and Workers' Compensation Pool Boards recognize that administration and operation of a county detention facility is a local decision to be made by the county's Board of County Commissioners, in

accordance with NMSA 1978, § 33-3-1. Lately, the Pool Boards have seen an increased interest in consolidating detention and sheriff operations under the control of the sheriff. The Pool Boards encourage separation and autonomy of these functions; professional sheriffs should oversee law enforcement functions, while professional detention administrators should manage detention operations.

"The Boards recognize that law enforcement and detention operations are unique and that they are uniquely different. Each discipline has specific requirements and expectations. Historically, these functions were consolidated; however, due to changes and advancements in society, civil rights entitlements, and court decisions, each discipline has evolved into a distinct profession."

WHEREAS, the Multi-Line and Workers' Compensation Pool Boards recognition that law enforcement and detention operations are each unique, with distinct requirements and expectations, is important and should guide the thinking of the Board in its overall responsibility for management of the Facility;

WHEREAS, in recent years, the Santa Fe County Sheriff has been actively involved in the management of the Santa Fe County Adult Detention Facility, including participating in the hiring and firing of employees at the Facility, participating in the determination of which inmates may be placed on work details, participating in the decisions concerning the award of good time, participation in internal investigations at the Facility, and participating in the supervision over employees at the Corrections Department, including the Jail Administrator;

WHEREAS, since the current leadership at the Corrections Department was appointed, a new medical director has been appointed at the Facility, a contract with University of New Mexico Hospital has been established to provide back-up physician coverage, a medical administrator has been recruited and employed, claims and lawsuits against the Facility have almost completely ceased, raises between \$2 and \$4 per hour have been ordered as an emergency measure to retain employees and attract experienced employees to the Facility, 14 new employees have been hired that, as a group, possess in excess of 200 years correctional experience, a County Corrections Advisory Committee of the Health Policy and Planning Commission has been created to address jail medical issues, St. Vincent Regional Medical Center has offered to assist the County to the extent of its ability with jail medical issues, continued progress has been made satisfying the concerns of the Department of Justice concerning medical and security issues, and members of the Corrections Advisory Committee (an advisory committee to this Board) has indicated that it is very pleased with the efforts of the Corrections Department and the progress that has been made since the new administration began work;

WHEREAS, the Board agrees with the Multi-Line Pool Board and the Workers' Compensation Board that separation and autonomy of corrections and law enforcement functions is important, that professional sheriffs should oversee law enforcement

functions and professional detention administrators should manage detention operations, and this is the proper structure to implement in Santa Fe County; and

WHEREAS, the Board therefore desires to express its confidence in present management of the Facility and of the Corrections Department, and desires to establish, in the clearest possible terms, the terms under which the Adult Detention will be operated, and the specific role of the County Sheriff in those operations.

IT IS THEREFORE RESOLVED AND ORDERED, AS FOLLOWS:

1. The Jail Administrator of the Santa Fe County Adult Detention Facility shall have sole authority to operate the Facility on behalf of the Board of County Commissioners.
2. The Jail Administrator, and the Facility, shall remain a part of the Corrections Department.
3. All authority set forth in NMSA 1978, Chapter 33, and all authority that is necessary and proper for proper operation of a county jail, shall be and hereby is lodged in the Jail Administrator of the Santa Fe County Adult Detention Facility.
4. The County Sheriff and other appropriate law enforcement agencies, shall conduct investigations of criminal conduct at the Facility, with which the Jail Administrator and the Corrections Department shall provide full cooperation. The County Sheriff and other appropriate law enforcement agencies shall thereafter determine who has the investigating authority based upon the customary interagency protocols.
5. The County Sheriff and other appropriate law enforcement agency shall, consistent with the need for confidentiality arising from a potential criminal prosecution, keep the Facility informed of the fact of any such investigation, which the agency is investigating, any findings that may require action by the Facility (e.g. potential criminal conduct of an employee which requires that the employee be placed on leave pending an administrative investigation, the need to place an inmate in administrative segregation for the inmates' safety, or Facility security), and the final disposition of the investigation.
6. Investigations of incidents that occur at the Facility shall be conducted by the Office of Professional Standards (OPS) pursuant to the Facility Investigations Policy promulgated by the Director of the Corrections Department, as amended from time to time, and, pursuant to that Policy, when facts are discovered that indicate a violation of criminal law, the OPS is to refer the matter to the County Sheriff and to other appropriate law enforcement agencies for criminal investigation and prosecution.
7. Any inmate housed at the Facility shall be permitted, without restriction, to contact the County Sheriff or other law enforcement agency on any matter of concern to the inmate.

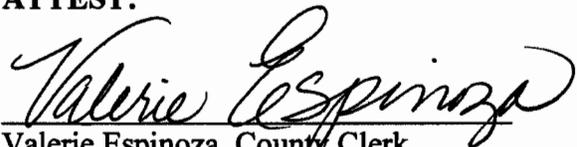
8. Resolution No. 2007-60 shall be amended to the extent inconsistent with the foregoing.

PASSED, APPROVED AND ADOPTED this 14th day of August, 2007.

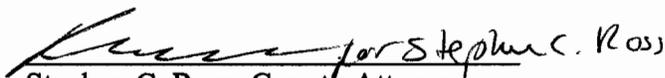
**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: 
Virginia Vigil, Chair

ATTEST:

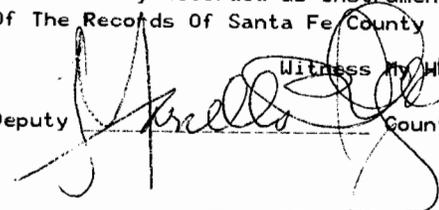

Valerie Espinoza, County Clerk

Approved as to Form:


Stephen C. Ross, County Attorney



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COUNTY OF SANTA FE)	BCC RESOLUTIONS
STATE OF NEW MEXICO) ss	PAGES: 6
I Hereby Certify That This Instrument Was Filed for Record On The 15TH Day Of August, A.D., 2007 at 09:52 And Was Duly Recorded as Instrument # 1495847 Of The Records Of Santa Fe County	
Deputy <u></u>	Witness My Hand And Seal Of Office Valerie Espinoza County Clerk, Santa Fe, NM