

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

RESOLUTION NO. 2007- 60

**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.**

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;

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;

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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 and the County Manager;

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, the 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, 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, 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;

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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 33-3-28(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 currently being performed by employees of the Corrections Department who are also commissioned police officers and designated as special deputy sheriff's officers by the Santa Fe County Sheriff;

WHEREAS, many incidents that occur in jails are not criminal incidents, but careful investigation is needed to determine whether a particular incident constitutes a crime;

WHEREAS, these investigations are best performed by individuals with familiarity with the corrections environment, but those individuals should also refer all appropriate matters to law enforcement agencies should it appear that a crime has been committed for which charges must be filed;

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."

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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 purported to assume control over certain operations at the Santa Fe County Adult Detention Facility, including exercising authority over the hiring and firing of employees at the Facility, determining which inmates may be placed on work details, exercising authority over the awarding of good time, purporting to exercise control over internal investigations at the Facility, and purporting to have supervisory authority over employees at the Corrections Department, including the jail administrator;

WHEREAS, recently the Sheriff has launched a quasi-criminal investigation of the management of the Corrections Department and the Facility, all in derogation of his statutory authority under the aforementioned statutes, and in derogation of the constitutional rights of those being investigated;

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, in viewing the Sheriff's concerns, the Board agrees with the Pool Boards 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 perpetuate here in Santa Fe County;

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:

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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 shall have no role in the operation and management of the Santa Fe County Adult Detention Facility except to conduct investigations of criminal conduct, with which the Jail Administrator shall provide full cooperation.

5. Investigations of incidents that occur at the Facility shall be conducted according to the protocols established by the Jail Administrator, and matters that meet the criteria set forth in those protocols shall be referred to the appropriate law enforcement agency for criminal investigation and prosecution.

6. Having no authority over operation and management of the Santa Fe County Adult Detention Facility, the County Sheriff shall immediately cease the investigation that is ongoing of operations and management of the Facility.

PASSED, APPROVED AND ADOPTED this 10th day of April, 2007.



THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By *Virginia Vigil*
Virginia Vigil, Chair



Valerie Espinoza
Valerie Espinoza, County Clerk

Approved as to Form:

Stephen C. Ross
Stephen C. Ross, County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 13TH Day Of April, A.D., 2007 at 15:44
And Was Duly Recorded as Instrument # 1478754
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Marcella [Signature] Valerie Espinoza
Deputy County Clerk, Santa Fe, NM