

IMPACT OF PUBLIC SAFETY REALIGNMENT ON RURAL FIREFIGHTING SAN DIEGO COUNTY NEEDS CONTINUED SERVICE BY INMATE FIREFIGHTERS

SUMMARY

The rural areas, or wildlands, of San Diego County are especially vulnerable to wildfires and have a continuing need for the services of trained firefighters. There now exist four conservation camps, popularly known as fire camps, operated by the California Department of Corrections and Rehabilitation (CDCR) and/or the California Department of Forestry and Fire Protection (CALFire) as base facilities for these wildland firefighters. In addition to professional CALFire staff, these fire camps also house trained California State Prison inmates who have volunteered for firefighting support duties. When not providing firefighting support, these State inmates also provide other emergency assistance and community services. CALFire has stated that inmate firefighters are an especially critical resource within San Diego County wildlands. The California Public Safety Realignment Act of 2011 (AB109), which changed many sentencing guidelines and handling processes within State courts and detention organizations, will impact the distribution of “high-risk” and “low-risk” inmates between State prisons and County jails.

Over the next few years, AB109 as now implemented will cause transition of many firefighter-eligible detainees from State facilities to County facilities. The 2012/2013 San Diego County Grand Jury (Grand Jury) is concerned that an unintended consequence of AB109 is that State prisoner availability for fire camp service will decrease as eligible detainees are instead assigned to county jails. In particular, the Grand Jury finds that in order to maintain current levels of inmate firefighters within San Diego County, future firefighter-eligible detainees could be drawn from County jail populations. To address this compelling public safety need within rural San Diego County, the Grand Jury recommends that the Board of Supervisors and its Director, County Public Safety Group, maintain a continuing and close awareness of the many issues raised in ongoing AB109 implementation. We also recommend that an action plan be developed with a goal of keeping the four fire camps within the County open year-round using current levels of qualified firefighting inmates from either State and/or County detention facilities. We additionally recommend the Sheriff develop an action plan for County inmate detention specifically addressing inmate firefighting availability.

INTRODUCTION

California’s Public Safety Realignment Act of 2011, commonly referred to as AB109, is perhaps the largest and most significant change to court-ordered incarceration of convicted felons within the last several decades. It was passed in response to a Federal District Court ruling that ordered the State to reduce overcrowding in its thirty-three prisons by 2013. The law took effect on October 1, 2011 and consists of many procedural elements with wide-ranging impacts to sentencing guidelines and handling

processes within State courts and detention organizations. AB109 implementation is being phased in over the next several years with many implementation processes and practices still evolving.

AB109 offers many opportunities and challenges for both the State and the County. Of the several issues raised within ongoing AB109 implementation, the Grand Jury has considered the impact of this legislation on the use of inmate firefighters within the County. Prior to passage of AB109, State officials routinely deployed low-risk inmates to the conservation camps, commonly referred to as “fire camps.”

The Grand Jury is concerned that an unintended consequence of AB109 implementation is that low-risk inmates will instead be housed in either County detention facilities or placed on some form of probation and may no longer be available for firefighting assignments. County residents require public safety leadership -- it is incumbent on the Sheriff; the Chief, County Fire Authority; and the Director, County Public Safety Group to provide necessary safety and security at all times. Changes in established processes and procedures brought by AB109 must include recognition of public safety needs, including wildland firefighting and prevention. The Grand Jury investigated how AB109 could affect inmate availability for firefighting and other constructive activity at fire camps located in San Diego County.

The Grand Jury investigation sought answers to the following questions:

- How important are inmate firefighters to rural firefighting activities and required future firefighting capabilities?
- What effect will AB109 have on the continuing availability of inmate firefighters within the County?
- Will the State keep the current four fire camps within the County open and staffed? If so, by whom?
- Will County-held eligible inmates be available as inmate firefighters to supplement or replace those now sourced from the State?
- Who among the California Department of Corrections and Rehabilitation (CDCR), the California Department of Forestry and Fire Protection (CALFire), the Sheriff’s Department, and the County Fire Authority will be responsible for the future operation and funding of fire camps within San Diego County and firefighter inmates assigned therein?
- Would County-held eligible inmates be available for firefighting assignments only in San Diego County or throughout the State?
- How can the Sheriff and the Chief, County Fire Authority jointly and cooperatively address these issues?

PROCEDURE

The Grand Jury completed the following reviews and interviews:

Reviews and Field Investigations:

- Reviewed California's Public Safety Realignment Act of 2011 (AB109) legislation
- Reviewed articles from throughout the State concerning this issue
- Attended a meeting held by a State Legislator
- Reviewed the 2011/2012 Grand Jury report on AB109
- Visited CALFire Headquarters
- Visited a Fire Camp

Interviews:

- San Diego County Supervisor
- San Diego County Public Safety Group
- San Diego County District Attorney's Office
- San Diego County Probation Office
- Members of the Sheriff's Department
- Members of San Diego County Fire Authority
- CALFire Division of the California Department of Forestry and Fire Protection

DISCUSSION

Background

It has been a practice in California that State prison inmates, within certain categories, may volunteer for firefighter training and community service in one of the fire camps. These camps are, for the most part, jointly operated by the California Department of Corrections and Rehabilitation (CDCR) and the California Department of Forestry and Fire Protection (CALFire). Inmate firefighters are deployed for wildland firefighting and prevention as well as other wildland conservation work. These assignments to fire camps are year-round and may last a year or more.

Over many decades of practice, it is accepted by both the general public and public safety leadership that inmate firefighters are essential to wildland fire prevention, fire suppression, fire control, and other important back country firefighting efforts. CALFire leadership has also stated that inmate firefighters are an especially critical need within the wildland areas of San Diego County.

Prior to AB109, general sentencing guidelines required judges to assign those persons found guilty of crimes resulting in sentences of one year or less to county detention

facilities. Judges sent those found guilty of crimes with sentences of greater than one year to State prisons. The restructured sentencing guidelines involving those convicted of non-serious, non-violent, and non-sexual offenses, commonly referred to as N3 inmates, as well as those convicted of a host of other low-level crimes are now sent to county detention facilities instead of State prisons regardless of sentence duration.

The California Conservation Camp Program

The Conservation Camp program was established by CDCR in 1915 to provide CALFire and other State agencies with an able-bodied, trained work force for fire suppression and other emergencies. The CDCR/CALFire annual operating budget is approximately \$2.35 million per camp.

CDCR and CALFire currently operate forty-two fire camps throughout the State. There are four camps now operating within San Diego County: La Cima (#42), McCain Valley (#21), Puerta La Cruz (#14), and Rainbow (#2). Fire camps are operated with either all-male or all-female inmate firefighters. Currently there are three female camps within California, two of which are in San Diego County: Puerta La Cruz and Rainbow. The third all-female camp is in Los Angeles County (#13). It is noted that there is a decreasing number of firefighter-eligible females now housed within State prisons.

Fire camps are minimum security, consisting of about ten buildings, including military-style barracks, a dining hall, administration building, and work areas. Approximately 90 to 150 inmates are housed at each of the camps. As a cooperative effort, CDCR and CALFire are authorized to operate 200 fire crews year-round. In general, 14 to 17 inmates serve on a single crew. Within the camp, inmates are in the custody of a CDCR officer. CDCR also provides facility security, custodial support, and medical service operations. Detention housing, food, and housekeeping services are provided by CDCR staff and non-firefighting inmates. CALFire personnel oversee the inmates while out of camp on firefighting operations and other work projects.

CALFire trains all inmate fire crews and supervises camp crews on the fire line. Overseen by a CALFire supervisor, fire crews are "on-call" to respond to an emergency anywhere in the State, including wildfires, floods, search and rescue, and earthquakes. When not responding to these emergencies, the inmate crews are busy with conservation and community service work projects for Federal, State, and local government agencies, such as repairing roads and aqueducts and maintaining state parks trails. Fire crews perform several million hours of emergency response each year and more on other community work projects.

In the past, inmates eligible for fire camp service were serving State prison time for low-level crimes with at least two years remaining in their prison sentencing. Specific inmate classification guidelines for firefighting eligibility have been developed by the CDCR. For example, inmates convicted for arson crimes are not eligible to be firefighting volunteers. Selected firefighter inmates would be assigned by CDCR to any of the existing fire camps in any California County depending on CALFire needs. Eligible male inmates are assigned to one of the 39 all-male camps while females are assigned to one of

three all-female camps. Eligible inmates are generally assigned to such camps for a two year period which would include firefighter training provided by CALFire personnel.

Availability of State Prisoners for Firefighting Service

As of 2011, there were approximately 4,400 State prison inmates assigned to fire camps. As AB109 implementation is phased in, most potential firefighting-eligible inmates will no longer be assigned to CDCR custody within State prisons but instead be assigned to county detention facilities. These inmates are then the responsibility of the counties and housed within the general county jail population.

The Legislative Analyst's Office has estimated that within the next several years the total prison inmate population available for volunteer firefighter assignment within CDCR fire camps would drop by almost 50% to approximately 2,200. The number of State prison inmates eligible for volunteer firefighter assignments could drop significantly over time as AB109 is fully implemented.

Use of County Inmates for Rural Firefighting Service

From the mid-19th century through the 1970 timeframe, the San Diego County Sheriff routinely provided County inmates to assist in rural firefighting activities. The policy and practice of detention facility operation has changed since that time and the County no longer provides inmate assistance for firefighting activities. There are unresolved issues concerning the custodial responsibilities of the Sheriff. If inmates assigned to County facilities were instead housed in fire camps, possibly those located outside of San Diego County, the Sheriff's responsibilities in custodial oversight would need to be resolved.

Under AB109, counties are required to pay CDCR approximately \$46 per inmate per day to house inmates as firefighters within the fire camps. In addition, the Sheriff is also responsible for providing medical services and associated transportation for County inmates. In 2011 the average cost of housing inmates in County detention facilities was approximately \$160 per inmate per day, although firefighter-eligible inmates may often require fewer medical services and thus cost considerably less. Housing of County inmates in fire camps does not relieve the Sheriff of the high overhead required to support the continuing operation of the County detention facilities. A loss of \$46 per day per inmate assigned to a fire camp may affect the operation of existing detention facilities.

There are issues that must be considered in utilization of firefighter-eligible inmates housed in County detention facilities for firefighting assignment. This seems due in part to the current low numbers of available lower-risk inmates with two or more years remaining on their sentences who would qualify for firefighting assignments (estimated to be no more than 40 males and only a handful of females). Such lower-risk inmates can now volunteer to provide food service and housekeeping duties within jail facilities at relatively low cost. The Sheriff has stated that if firefighter-eligible inmates were transferred to fire camps these services would have to be performed (at a much higher cost) by Sheriff's staff or private-sector workers.

FACTS AND FINDINGS

Fact: California has been ordered by Federal District Court to reduce overcrowding within its 33 State prisons.

Fact: AB109 sentencing guidelines will cause a redistribution of inmates between State and County detention facilities, with higher-risk inmates becoming concentrated in State prisons while generally lower-risk inmates will be assigned to county detention.

Finding 01: California Public Safety Realignment Act of 2011 (AB109) brought significant change to the sentencing, processing, and detention assignment for court-ordered incarceration of convicted felons.

Finding 02: An unintended consequence of AB109 implementation is that over time a lower number of State prison inmates will be eligible for assignment to fire camps as volunteer firefighters.

Fact: Inmate firefighters are used for wildland fire prevention, fire suppression, fire control, and other important back country firefighting efforts.

Fact: CALFire leadership has stated that inmate firefighters are especially critical within the wildland areas of San Diego County.

Fact: California now operates 42 fire camps with four camps located in San Diego County.

Fact: In 2011 there were 4,400 State prison inmates assigned to fire camps.

Fact: The Legislative Analyst's Office estimates that within the next several years the State prison population will include only 2,200 inmates who would qualify to volunteer for firefighting.

Fact: As currently implemented, AB109 allows counties to either house low-risk inmates in their detention facilities or place them on probation.

Finding 03: If sufficient inmate firefighters cannot be drawn from the State prison population they could be drawn from eligible County inmate population.

Finding 04: Given the fire danger inherent in San Diego County wildlands, the fire camps within San Diego County should be kept open.

Fact: County public safety leadership has the responsibility to incorporate the many changes in established processes and procedures brought by AB109.

Fact: AB109 has only been in effect a year and implementation processes are still evolving. In addition, there are initiatives being considered to address several issues that are unclear or ill-defined relative to AB109 implementation.

Fact: There are unresolved issues concerning the utilization of County inmates for firefighting assignment due to additional cost and loss of manpower for other duties.

Finding 05: There are clear and competing priorities for assignment of County inmates to fire camps over the next several years that must be thoughtfully resolved.

Finding 06: There is a compelling requirement that the services of trained inmate firefighters be ready and available, especially during the wildfire season. The valuable support provided by these inmate volunteers of essential firefighting services should be a top priority.

Fact: CDCR is currently responsible for assignment of State inmates as well as providing detention housing, food, and housekeeping services necessary to maintain inmates at fire camps.

Fact: Under current AB109 implementation guidance, the Sheriff must reimburse CDCR approximately \$46 per inmate per day to house County inmates at fire camps.

Fact: The Sheriff is responsible for providing medical services and associated transportation for County inmates.

Fact: The current average cost of housing inmates in County detention facilities is approximately \$160 per inmate per day, although firefighter-eligible inmates may often require less medical services and cost considerably less.

Fact: Even if some County inmates are housed in fire camps, the Sheriff still has the high overhead to support continuing operation of County detention facilities.

Finding 07: The \$46 per day per inmate cost for those inmates housed in fire camps will increase future operational budgets of County detention facilities.

Finding 08: There are additional costs incurred by the Sheriff in connection with providing of medical services and associated transportation for County inmates housed in fire camps.

Finding 09: A compelling argument can be made that the State should subsidize counties for the detainment costs of those County inmates assigned to fire camps including necessary medical support services.

RECOMMENDATIONS:

The 2012/2013 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors and the Director, County Public Safety Group:

13-19: Maintain a continuing and close awareness of the many issues raised in ongoing AB109 implementation with respect to rural firefighting. To assist in this process, the Director, County Public Safety Group, should develop an action plan necessary to monitor the AB109 implementation activities of public safety officials across impacted California counties relative to continuing inmate firefighter availability. The action plan should also include appropriate monitoring and support of relevant CDCR, CALFire, and State legislative activities with respect to our specific County public

safety needs. This action plan should be completed and accepted by the Board of Supervisors by June 1, 2014.

The 2012/2013 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

13-20: Develop an action plan with a goal of keeping the four existing fire camps within the County open year-round using current levels of qualified firefighting inmates from either State and/or County detention facilities. This plan should be developed by the Board in concert with the Sheriff, the County Fire Authority, and representatives of CALFire. This plan's actions should be phased in as the number of potentially qualified firefighting inmates within County custody increases over the next several years and as there is a corresponding decrease in such inmates within CDCR custody. The action plan should specifically address:

- Utilizing qualified County inmates within County fire camps.
- Working with appropriate State public safety agencies to subsidize the County for services of inmates assigned to fire camps for firefighting duties.
- Maintaining the CDCR/CALFire fire camps within the County.

The plan should include implementation actions via Board of Supervisor resolution, legislative advocacy, and other appropriate measures. This plan should be completed and accepted by the Board of Supervisors by June 1, 2014.

The 2012/2013 San Diego County Grand Jury recommends that the San Diego County Sheriff:

13-21: Develop an action plan for County inmate detention relative to potentially qualified inmate firefighters to specifically address the need for inmate firefighting availability. This action plan should be completed and accepted by the Board of Supervisors by June 1, 2014.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
San Diego Sheriff	13-21	7/1/13
San Diego County Board of Supervisors	13-19 through 13-20	7/31/13
Director, Public Safety Group County of San Diego	13-19	7/31/13