



Office of the Sheriff
SANTA BARBARA COUNTY

STATIONS

Buellton

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Buellton, CA 93427
Phone (805) 686-8150

Carpinteria

5775 Carpinteria Avenue
Carpinteria, CA 93013
Phone (805) 684-4561

Isla Vista

6546 Pardall Road
Isla Vista, CA 93117
Phone (805) 681-4179

Lompoc

751 Burton Mesa Road
Lompoc, CA 93436
Phone (805) 737-7737

New Cuyama

70 Newsome Street
New Cuyama, CA 93254
Phone (661) 766-2310

Santa Maria

812-A W. Foster Road
Santa Maria, CA 93455
Phone (805) 934-6150

Solvang

1745 Mission Drive
Solvang, CA 93463
Phone (805) 686-5000

Sheriff - Coroner Office

66 South San Antonio Road
Santa Barbara, CA 93110
Phone (805) 681-4145

Main Jail

4436 Calle Real
Santa Barbara, CA 93110
Phone (805) 681-4260

COURT SERVICES

CIVIL OFFICES

Santa Barbara

1105 Santa Barbara Street
P.O. Box 690
Santa Barbara, CA 93102
Phone (805) 568-2900

Santa Maria

312 E. Cook Street "O"
Santa Maria, CA 93455
Phone (805) 346-7430

Lompoc

401 E. Cypress #105
Lompoc, CA 93436
Phone (805) 737-7710

HEADQUARTERS
P.O. Box 6427 • 4434 Calle Real • Santa Barbara, California 93160
Phone (805) 681-4100 • Fax: (805) 681-4322

BILL BROWN

Sheriff-Coroner

KENNETH R. SHEMWELL

Undersheriff

Copy by facsimile – original via US Mail

July 30, 2008

Andrea Lynn Hock
Legal Affairs Secretary
Office of the Governor
1303 Tenth Street, Suite 1173
Sacramento, CA 95814

Dear Ms. Hock:

For the past year and a half, members of my staff and members of the CDCR have been engaged in dialogue regarding the establishment of a State Reentry facility in Santa Barbara County. Throughout these extensive discussions we have consistently proposed an arrangement where such a facility is run by members of the Sheriff's Department under contract with the State.

Consistent with that long agreed understanding, we submitted a proposal to the Corrections Standards Authority under the AB 900 grant process that resulted in our being conditionally awarded \$56.295 million for jail construction.

Our position and intent to operate the reentry facility, until recently, was not considered problematic to CDCR. However, on July 3rd, 2008 we received a letter from CDCR Secretary Matthew Cate indicating that a legal opinion produced by a law firm under contract to his agency concluded that AB 900 precluded the County from operating the facility. (See Attached).

I asked Secretary Cate for a copy of the legal opinion, but in a conversation with him on July 24, 2008 he explained that you would not authorize the release of the legal opinion to us. He indicated that you were willing to review any other conflicting legal opinion. Obviously it is difficult to refute an opinion comprehensively that we cannot review, but nevertheless the Santa Barbara County Counsel's Office has prepared the following for your consideration:

Government Code section 19130(b)(2) permits contracting for a new state function when the Legislature has specifically mandated or authorized the performance of

ATTACHMENT "F"

the work by independent contractors. When read in conjunction with Penal Code section 6258, and in the context of AB900 and related statutes, this section allows the State to contract with the County for the operation of a new reentry facility. Penal Code section 6258(a) provides that “[t]he Director of Corrections may contract for the establishment and operation of separate **community correctional reentry centers** for men and women, provided that the per-inmate cost for **operating these facilities under contract** will be less than the per-inmate cost of maintaining custody of the inmates by the department.” (Emphasis added throughout). In our September 2007 presentation to the California Department of Corrections and Rehabilitation (CDCR) in Fresno, we were able to demonstrate our ability to provide a cost effective and lower cost operation of a reentry facility operated by the County of Santa Barbara, in conjunction with the operation of our planned new jail facility built pursuant to AB 900.

AB900 authorized the new state function of funding and operating new reentry facilities for 16,000 additional inmates of the CDCR. PC 6258(a) has previously authorized the CDCR to contract with counties for operation of such reentry facilities. See also Penal Code section 6160, in which the Legislature finds and declares “that existing law already recognizes the appropriateness of placing inmates in **community facilities**.” “The civil service mandate is aimed at protecting ‘the existing civil service structure’ and does not compel the state ‘to fulfill’ every new state function through its own agency.” *Cal. State Employee’s Assn v. Williams* (1970) 7 Cal.App.3d 390, 397.

The Legislature has authorized the CDCR to contract with counties in several other instances as well. These include:

- State contracts with local jails to hold State parole violators (PC 2910.5)
- State contracts with cities or counties to construct and operate community corrections programs, restitution centers, halfway houses, work furlough programs, or other correctional programs (PC 2910.6)
- AB900 provides for the transfer of state inmates to out-of-state prisons through contracts
- State contracts with counties to build and/or operate Substance Abuse Community Correctional Detention Centers (PC 6240-6246)

It is appropriate to contract operation of the reentry facility to the County of Santa Barbara in order to save costs to the CDCR and to fulfill the AB900/Penal Code 6273 requirement that: “In the locations where a reentry program facility is established, the Department of Corrections and Rehabilitation shall develop a collaborative partnership with local government, local law enforcement, and community service providers.”

It would be inappropriate to treat the newly funded Reentry Facilities differently or unequally than the previously authorized Reentry Facilities, which have the same name and function.

It should be pointed out that AB900 was enacted as urgency legislation and may not have been accorded the same opportunity for deliberation and input as the other statutes mentioned herein. For that reason, deference should be given to the authorization to contract set forth in PC 6258(a).

“If the words in the statute do not, by themselves, provide a reliable indicator of legislative intent, ‘[s]tatutory ambiguities often may be resolved by examining the context in which the language appears and adopting the construction which best serves to harmonize the statute internally and with related statutes.” (*People v. Gonzales* (2008) Cal. Supreme Court S149898, 2008 Cal. LEXIS 6770)

The following Government Code section was enacted as Part of AB900:

15820.905. With the consent of the SPWB, the CDCR, and a participating county are authorized to enter into leases or subleases, as lessor or lessee, for any property or approved project and are further authorized to enter into contracts or other agreements for the use, maintenance, and operation of the local jail facility in order to facilitate the financing authorized by this chapter. In those leases, subleases, or other agreements, the participating county shall agree to indemnify, defend, and hold harmless the State of California for any and all claims and losses accruing and resulting from or arising out of the participating county's use and occupancy of the local jail facility.

In the event the State will not contract with the County for operation of a state-owned facility, the County will consider entering into a long-term ground lease for a state constructed or funded facility provided that (1) Reentry Facility infrastructure costs be shared as part of the County's new jail, and (2) County operate the facility with its own forces. (Government Code 15820.905.)

The following Penal Code section was enacted by AB900:

2062. (a) The Department of Corrections and Rehabilitation shall develop and implement a plan to obtain additional rehabilitation and treatment services for prison inmates and parolees. The plan shall include, but is not limited to, all of the following:

. . . .
(3) Plans to obtain from local governments and contractors services for parolees needing treatment while in the community and services that can be brought to inmates within prisons.

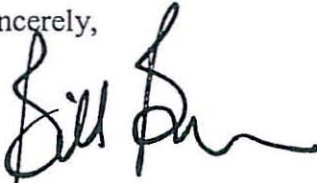
In order to harmonize these statutes, it is necessary to conclude that the Legislature intended that CDCR be able and encouraged to contract with local entities with law enforcement experience in the operation of the newly-funded reentry facilities.

As you can see we have done substantial research and review of this issue. We are dedicated to the reentry philosophy, confident in its potential for success, and motivated to provide a state of the art reentry facility that is mutually beneficial to our county and the State. Our belief is that the State can contract with us to run a reentry facility under existing law.

We would appreciate your prompt review of and comment on our position. Time is of the essence in this matter, since we are facing a September 13 deadline from the State, and a September 2 deadline to present an agreement to our Board of Supervisors.

I look forward to hearing from you on this matter as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Brown". The signature is fluid and cursive, with a long horizontal stroke at the end.

BILL BROWN
Sheriff – Coroner

Attachment

c: Secretary Matthew Cate, CDCR
Susan Kennedy, Governor's Chief of Staff
Michael Brown, Chief Executive Officer, County of Santa Barbara
Dennis Marshall, County Counsel, County of Santa Barbara