
Posted on Wed, Feb. 16, 2005

Suit filed against county jailers

INMATE WELFARE MONEY USED WRONGLY, PLAINTIFFS ALLEGE

By John Woolfolk
Mercury News

A class-action lawsuit filed Tuesday accuses Santa Clara County jailers of gutting inmate education and rehabilitation programs while illegally using millions of dollars intended for them to pay for staffing costs and other required services.

The lawsuit alleges the county Department of Correction, which runs the sixth-largest jail system in California with an average of more than 4,000 inmates a day, has misspent more than \$6.2 million from an "inmate welfare fund" while cutting more than \$1.1 million in programs.

"The DOC is improperly using IWF funds designated and needed for the inmates' welfare to pay for two services already mandated by state law: feeding inmates and providing security," the lawsuit said.

Chief of Correction Edward Flores said he had not seen the lawsuit, but that he stood by his department's use of the money. County officials and the inmates' attorneys have been arguing over the expenditures for months.

"We believe all the expenditures out of the inmate welfare fund for programs and staffing are appropriate," Flores said.

Deputy County Counsel Linda Deacon, who had not seen the lawsuit either, said the disputed fund expenditures did go toward programs that benefit the inmates. Programs that were cut, she said, had lost their staff and attendance or were redundant.

"If the staff are supporting a program that benefits the inmates, we believe it can be paid for out of the inmate welfare fund," said Deacon.

Attorneys with the Public Interest Law Firm of San Jose and Fenwick & West filed the suit in Santa Clara County Superior Court on behalf of four inmates and all others incarcerated in the county's jails.

Both firms had won a \$1.8 million settlement from the county over a 1995 lawsuit that accused jail guards of sexually abusing female inmates. The public interest firm also settled an overcrowding case in the 1980s that almost led to the jailing of the county's supervisors.

The current suit names the Department of Correction and county board of supervisors, who approve jail spending, as defendants.

State law established that inmate welfare funds must be set aside from revenue including jail-store profits and pay-phone-vendor contracts. Jailers must use fund money primarily for the benefit, education and welfare of the inmates. The law says the money "shall not be used to pay required county expenses of confining inmates," though surpluses could be used to "augment" mandated costs.

The inmate welfare funds are overseen by a committee of jail personnel who prepare an annual spending plan that must be approved by the board of supervisors.

According to the suit, those plans totaled more than \$5 million in 2004 and \$4 million in 2005. But jail officials spent \$3.4 million of the money in 2004 and \$2.8 million in 2005 on mandated staffing costs, the suit said.

Those costs include five correctional officers assigned to monitor the Elmwood jail kitchen, five other officers and a clerk charged with overseeing inmate visits, and two officers at the main jail who process inmates serving work furlough and community service.

Deacon said the kitchen, visitation and work-furlough staffing is an appropriate use of the funds because the inmates benefit from those services.

Inmates learn vocational skills through the kitchen work, but because they have access to knives, they require additional supervision, Deacon said. The jail also added staff to expanded visitation services beyond the mandated minimum to accommodate the inmates' families and friends, she said. The work-furlough and community-service programs benefit inmates by allowing them to spend time out of their cells, she added.

Jail officials also are unlawfully diverting \$800,000 in telephone contract commissions and bonuses from the inmate welfare fund to cover general budget expenses, according to the suit. Deacon said some of that disputed money was appropriately spent on staffing to cover security a phone vendor had promised.

The suit contends that jail officials in 2004 eliminated 10 inmate welfare programs including classes on domestic violence and conflict resolution, AIDS education, parenting and substance-abuse rehabilitation. Three other programs, including General Education Degree and inmate literacy, saw funding reduced 60 percent to 75 percent. The reductions totaled more than \$1.1 million.

Deacon said the suit unfairly suggests inmates have lost popular services.

``What they're not giving you is a list of the ones that are still running, which I think is fairly impressive," Deacon said.

The suit asks a judge to order county jailers to stop illegally spending and diverting inmate welfare funds and to restore misspent funding. It also seeks an independent audit to ensure compliance.

``The misallocation of funds and misuse of funds really is impacting a very vulnerable sector of society," said Fenwick & West partner Virginia DeMarchi, whose firm provided free assistance to the public interest group.

Contact John Woolfolk at jwoolfolk@mercurynews.com or (408) 278-3410.