

Sheriff comes out swinging against county supervisors' allegations of jails mismanagement

Laurie Smith says she'll welcome a full investigation of incidents in the jails and her performance

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Embattled Santa Clara County Sheriff Laurie Smith said Tuesday that she would support investigations into her management of the county jail system and other allegations, including possible political influence, which have been [raised](#) by Supervisors Joe Simitian and Otto Lee.

With a third lawsuit against the county for an incident in the Elmwood Correctional Facility and the Main Jail in four years that caused an inmate's near-fatal injury and paralysis that could result in millions of dollars in damages, the supervisors said they have had enough of what they described as a pattern of mismanagement and a lack of transparency.

Simitian said he was shaken by videos of a separate incident in August 2018, when a man in a mental health crisis was not properly protected from self-injury despite officers knowing he was suicidal. As a result, the man sustained severe brain damage and must now be cared for by his parents. The county settled the lawsuit for \$10 million.

During a nearly hourlong press conference on Tuesday morning, Smith defended her office's progress in jail reform. She flatly said she would not resign, despite San Jose Mayor Sam Liccardo's [call for her resignation on Monday](#). Smith said that Liccardo should be doing his own work "instead of being a mouthpiece for the Mercury News," which has published many investigative stories regarding her tenure. She also called into question the county's own transparency.

"Since there continues to be a lot of speculation and inferences, I welcome any and all investigations. It really is important to have experts provide an in-depth review of some of the things that have been stated so we can get the true facts," she said.

Smith added that since Simitian and Lee allege federal, constitutional and civil rights violations, there should be an investigation by the FBI in addition to those called for by Simitian and Lee. The two supervisors made numerous allegations of mismanagement and lack of transparency in a [board referral](#), which was scheduled for discussion before the full Board of Supervisors on Tuesday.

Simitian and Lee want a 19-page confidential report by the County Counsel to be released to investigating agencies. The report involved an incident in which a severely mentally ill man, Andrew Hogan, while unsecured and without appropriate head-protection gear, banged his head repeatedly in a transport van, causing an incapacitating brain injury.

While Smith supports the called-for investigations, the only caveat would be releasing gruesome videos of the incident, she said. Publicly airing the videos could be traumatic for Hogan and his parents.

In support of her position, Smith introduced Paula Canny, the defense attorney who represented Hogan. Canny said she did not want the videos publicly released without the consent of Hogan's parents. Neither Hogan nor his parents have seen the 38 videos related to the incident. Canny has been trying to get the videos from the county, which should first be viewed by Hogan and his parents before any content is released to protect his right to privacy, she said.

Canny also spoke emphatically in support of Smith and the jail staff. The sheriff's office is hamstrung by the systemic failure of the county to offer services and psychiatric hospital beds. Severely mentally ill people who are accused of low-level misdemeanors can't be properly treated in jail, she said. She did not fault the sheriff or her staff, Canny said.

"We have a fundamentally broken system," Canny said. She faulted a lack of services and judges and district attorneys who charge and incarcerate severely mentally ill people. Jails become default treatment beds, she said.

Another of her clients was Michael Tyree, who was waiting for a treatment bed in 2015 while in the Main Jail for a low-level misdemeanor. He became combative and was beaten to death by three jail guards. The officers were convicted of second-degree murder in that case; the county shelled out \$3.6 million in a lawsuit settlement.

Smith initiated a prompt investigation into the Tyree murder. "She is responsible for that prosecution," Canny said.

"I have found Sheriff Smith to be super responsive," she added.

Canny faulted the lack of funding as the real culprit behind violent jail incidents. Of the county's roughly 2,500 people who are incarcerated in the jails, about 80% are pretrial detainees and more than 25% suffer serious mental health issues, yet, there's no place to put them, she said.

"I'm surprised more things don't happen. The sheriff should not be tasked to treat mentally ill people. Mental health isn't a criminal justice issue, it's a public health issue," she said. "What people need to recognize and what people need to fund is more mental health beds."

Santa Clara County has 246 mental health beds to serve its population of nearly 2 million and needs another 960 beds to meaningfully address the issue, she said.

Smith also put the onus for the custody problems on the county, which has reduced her budget. The county demolished the Main South Jail off of San Pedro Street in summer 2020 and the facility has yet to be replaced. The sheriff's office is proposing a new 500-cell jail on the site at an estimated \$380 million to \$390 million.

Last October, then-Supervisor Dave Cortese noted that COVID-19 restrictions led the county to reduce its inmate intake through other out-of-custody programs, a model that, if successful, could scrap the county jail system. Instead, the county could consider investing in mental health facilities and services, including a possible treatment center run by health officials instead of the sheriff's office. Smith did not say whether she supports this idea, but meanwhile, the dearth of appropriate facilities for mentally ill inmates remains a desperate problem.

Smith pushed back on claims that she "squandered" \$450 million due to multiple lawsuits and two consent decrees requiring public money to improve jail conditions and operations. Of that sum, \$162 million was spent by the county on construction projects, particularly to make the jail facilities compliant with the Americans with Disabilities Act. Another \$68 million went for custody health services. The sheriff's office received \$21 million of the \$450 million, but it has had to reduce its staffing since 2019 by 133 employees. "We are severely understaffed," she said, adding it poses a danger to staff and inmates.

Countering Simitian's and Lee's assertions that she hasn't been transparent, Smith said the county has lacked transparency of its own. The county hired a contractor for \$225,000 to perform a staffing study, but it is not being released to the public. She said she would surmise that the study would show how seriously the county is understaffed.

Smith said the sheriff's office has made some important jail reforms as a result of following its conditions of the two consent decrees, particularly related to ADA-compliance and the use of solitary confinement. In 2015 and 2016, more than 100 people were in solitary confinement. Today, there are just 10. Only inmates who pose an extreme danger are housed in solitary units, she said.

Based on the terms of a consent decree that arose out of the Cole v. County of Santa Clara anti-disability discrimination lawsuit, the sheriff's office created a new ADA-compliant policy, gave staff ADA training, created an ADA-grievance process, made structural ADA-compliant improvements and created a tracking system to monitor and report on all ADA-related inmate accommodations and needs.

The sheriff's office also started a system for use-of-force grievances, implicit bias and crisis intervention training and a system where incidents are evaluated by the internal affairs unit, jail crimes unit and federal use-of-force monitors. The sheriff's office also developed a process to identify and investigate behavior that falls under the Prison Rape Elimination Act. The sheriff's office met all 45 standards that were audited during the last audit cycle regarding sexual assaults in the jails.

Asked to identify the office's shortcomings, Smith said it's about change.

"Change is not as quick as I would like it to be. Culture change takes a while," she said. "It never feels like I've done enough."

On Tuesday, the Board of Supervisors unanimously supported the release of the confidential documents, videos and other information to investigating agencies. The supervisors directed staff to investigate what mental health services are provided in the jail and add the Department of Justice to the list of investigating agencies to receive the information.

The board also asked staff to clarify what actions it can take to reshape the jail system. Prior to 2010, the jails were led by the chief of correction. The contract that gave the sheriff control over jail operations expires next year. Management could change back to the Department of Correction, Supervisor Susan Ellenberg noted.