

TO: James L. App, City Manager
FROM: Lisa Solomon, Chief of Police
SUBJECT: Prisoner Litigation Reform Act – Request to Intervene
DATE: September 4, 2007

NEEDS: For the City Council to consider authorizing the Chief of Police to enter into a legal motion to intervene along with other state Police Chiefs, Sheriffs and other various state officials against the federal Prison Litigation Reform Act (PLRA).

FACTS:

1. The Chief Judge of the Ninth Circuit U. S. Court of Appeals recently appointed a three judge court to decide whether or not to issue a “prisoner release order” impacting the California prison system.
2. Under the PLRA, the three judge court can issue an order establishing a cap on the number of inmates to be incarcerated in the state prison system (thereby limiting the ability of county sheriffs to transfer inmates sentenced to state time) and / or order the immediate release of up to 40,000 prisoners.
3. The PLRA allows for certain government related individuals and entities to intervene in this process in order to provide direct evidence and / or testimony on the impact such action will have on local communities and the criminal justice system at large.
4. Sheriffs, chief probation officers, legislators, prosecutors, and units of government which fund prisons (including local systems) have the right to become parties to this litigation.
5. On August 17, 2007 the firm of Jones & Mayer, retained by the Chief Probation Officers of California, the California Police Chief’s Association and the California State Sheriffs Association, made and were granted a motion to intervene on behalf of 23 county Sheriffs and one chief probation officer. The court also agreed to an extension of time to allow municipal chiefs of police and county chief probation officers the opportunity to secure authorization from their governing bodies to join the motion.
6. Support in this intervention process will not require the commitment of any financial resources from the City of Paso Robles, as this litigation is being funded by a variety of political parties / associations previously mentioned.

**ANALYSIS &
CONCLUSION:**

This matter consists of two class action lawsuits which have been brought pursuant to the Prison Litigation Reform Act that were ordered consolidated. After 12 years of ongoing litigation, two federal court judges ruled that situations exist in the California prison system justifying the creation of a special three court judge panel to assume virtual control over the state prison system. On August 1, 2007, The Chief Judge of the Ninth Circuit U.S. Court of Appeals appointed a three judge panel to consider whether or not to issue a

prisoner release order, as a result of concluding that the over crowded conditions in the California prison system violated the federal constitutional rights of those inmates.

In fact, there are approximately 175,000 inmates in the state's system, which was designed to hold approximately 100,000 inmates. Conclusions based on prior hearings have also been that the system is woefully inadequate in providing appropriate medical and mental health care for as many as 33,000 inmates who qualify for such treatment.

In reaction, Governor Arnold Schwarzenegger set aside over seven billion dollars to create 53,000 new prison beds; increase the quality of medical care in the system; develop, in conjunction with local communities, re-entry facilities for inmates being released back to communities; and increase support services for those individuals. Unfortunately, the court has stated these efforts are inadequate and will not remedy the constitutional violations currently in existence.

Should the court determine the system needs immediate relief, it would have authority to issue an order establishing a cap on the number of inmates to be incarcerated in the state prison system (thereby limiting the ability of county sheriffs to transfer inmates sentenced to state time) and / or order the immediate release of up to 40,000 prisoners. The result statewide and in local communities would be devastating. Should a cap be instituted, our local Sheriff would be unable to make any transfers of felons qualifying for state prison sentences until the population cap could be achieved and maintained. Because it is most important to keep the worst of the worst in jail, we would begin to see lower level crimes being plead out, dismissed or simply released locally. Our local probation department's case load would become unmanageable because too many offenders who should be in jail would be diverted to probation since there would be no room for them in the local facility. We would essentially be left to "wallow" in this problem locally without adequate resources to deal with these offenders who we cannot transfer out and who cannot be managed within our local system because the most serious felons would be necessarily occupying the limited space we have available.

A variety of stake holders have joined together in a collaborative effort to stave off this potential disaster. The firm of Jones & Mayer has been retained by three associations to represent them in this undertaking. As such, a Motion to Intervene, was filed on Wednesday, August 15, 2007 on behalf of 23 California Sheriff's and 1 Chief Probation Officer. A continuance was requested to allow municipal chiefs of police to secure authorization from their respective governing bodies to join in the litigation as well.

POLICY

REFERENCE: None.

FISCAL

IMPACT: None.

OPTIONS:

- a. Authorize the Chief of Police to enter into a legal motion to intervene along with other state Police Chiefs, Sheriffs and other various state officials against the federal Prison Litigation Reform Act (PLRA).
- b. Amend, modify, or reject the above option.