

FRANKLIN COUNTY

JAIL TRANSFER GUIDANCE

DOCUMENT



Executive Summary

This report addresses the request from the Franklin County Board of Commissioners to outline the necessary steps for removing the Corrections department from the purview of the Sheriff and establishing it as an independent department reporting directly to the Commissioners. Based on Washington State law, including the powers and duties of Commissioner's and Sheriffs, as well as the specific authorization within the City and County Jails Act, this report concludes that such a separation is legally allowable and outlines key legal, administrative, budgetary, and contractual considerations that must be addressed to ensure a smooth and effective transition.

Legal Authority and Framework in Washington State

In the State of Washington, counties are established as political subdivisions of the state, deriving their authority and responsibilities from the state constitution and enacted state laws. These laws define the structure of county government and the roles of entities working together to deliver public services. The governance of these counties is entrusted to locally elected officials. For counties that have not adopted a home rule charter, the standard form of government is the commission form, typically consisting of three elected commissioners who act as both the legislative and executive authority. Franklin County is among the majority of Washington counties that operate under this commission form of government. This foundational structure means that the powers of the Franklin County Board of Commissioners regarding the organization of county departments are directly conferred by state statutes.

Powers and Duties of County Commissioners regarding County Departments

Title 36 of the Revised Code of Washington (RCW) provides the legal framework for the establishment and operation of counties within the state, outlining the powers and duties of county commissioners. Within this title, RCW 36.32.120 enumerates the powers of county legislative authorities, which are the Board of County Commissioners in the case of Franklin County. These powers include the authority to provide for the construction and maintenance of necessary public buildings, such as jails. Furthermore, the commissioners are vested with the care of county property and the management of county funds and business. A key responsibility of the board is establishing the levy rate and adopting a balanced budget for each calendar year, specifying the budget for each department within the county.

Powers and Duties of County Sheriffs

RCW 36.28 outlines the general duties of the county sheriff, who is recognized as the chief executive officer and conservator of the peace within the county. The Sheriff is

responsible for enforcing laws, arresting individuals who break the peace, and executing court orders and warrants. Historically, in the United States, the role of the Sheriff evolved to include the oversight of county jails. Consequently, in many Washington counties, the sheriff's office includes a division dedicated to corrections, as is the case in Franklin County. The Sheriff is an elected official, directly accountable to the people.

Legal Basis for Creating a Separate Department of Corrections

The specific legal basis for the Franklin County Board of Commissioners to establish an independent Corrections department, separate from the Sheriff's office, is provided by RCW 70.48.090(4) of the City and County Jails Act. This statute explicitly authorizes a county that bears the primary responsibility for operating a jail to create a dedicated department of corrections. This department would then be in charge of the jail facilities and all individuals legally confined therein, with its authority being subject to the governing unit, which in this case is Franklin County itself through the Board of Commissioners. The statute further clarifies that if such a department of corrections is established, it assumes responsibility for the jails and the individuals within them. Conversely, if a department of corrections is not created, this responsibility remains with the chief law enforcement officer of the county, the Sheriff. This provision in RCW 70.48.090(4) provides the clear legal pathway for the Franklin County BOCC to proceed with separating the management of the county's correctional facilities from the Sheriff's direct control.

It should be noted that actions of the state legislature are presumed to be constitutional upon adoption. *Pastor v. Real Prop. Commonly Described as 713 SW 353rd Place, Fed. Way, King Cnty.*, 21 Wn. App. 2d 415, 431, 506 P.3d 658, 667 (2022); RCW 70.48.090(4) has never been challenged in a court of law and remains good law today. Further, actions taken by a Board of County Commissioners acting pursuant to a duly authorized statute are presumed to be legal. *State ex rel. Piper v. Pratt*, 31 Wash. 2d 725, 728, 198 P.2d 814, 816 (1948).

Additionally, a firearms transfer occurs between two separate legal entities, as state law, which mirrors federal law, defines a transfer as occurring between two separate legal entities. See RCW 9.41.010 (36). Since the Department of Corrections and Franklin County Sheriff are both part of the same legal entity—Franklin County—there is no firearm transfer since the firearms remain property of Franklin County.

Last, the limited authority peace officers operating within the Franklin County Jail operate with the same authority as they did under the Franklin County Sheriff's Office, as the Franklin County Department of Corrections was duly established under Chapter

70.48 RCW and has policies pursuant to RCW 70.48.071. Further, corrections deputies remain limited authority peace officers as those officers did under the sheriff's office. Corrections deputies retain their Criminal Justice Training Certifications and firearms certifications, as those transfer with the deputies, not the department. Further, because the county has transferred all sheriff's office policies to the Franklin County Department of Corrections, the limited authority peace officers working within that department retain the authority to use their firearms consistent with their firearms policy pursuant to RCW 10.93.200.

Detailed Steps for Establishing an Independent Corrections Department

Legal and Administrative Procedures

The Franklin County BOCC, acting as the county's legislative authority, must initiate the separation process by drafting and passing a formal resolution. This legislative action should clearly articulate the Board's decision to establish an independent corrections department. The document should explicitly define the new department's mission, scope of responsibilities, and its direct reporting line to the Board of Commissioners. Given the Board's power to adopt, amend, and repeal resolutions, this formal action will serve as the foundational step for the reorganization. The resolution should also cite RCW 70.48.090(4) as the specific state law authorizing this separation.

Potential Need for Amendments to County Resolutions

A thorough review of existing Franklin County Ordinances and Resolutions is essential. The board should consult with the Prosecuting Attorney's office. The review should identify any resolutions that currently reference the Corrections Division as part of the Sheriff's Office or outline responsibilities that would need to be reassigned to the new independent department. Any identified resolutions or ordinances would then need to be amended to reflect the updated organizational structure. The step ensures legal consistency and clarity within the county's local legal framework.

Consultation with the Prosecuting Attorney

Throughout the entire process of separating the Corrections Department, the BOCC should maintain close collaboration with the Prosecuting Attorney. The County Prosecuting Attorney serves as the legal counsel for the county and can provide crucial guidance on the interpretation of state laws, the drafting of resolutions or ordinances, and the legal implications of the reorganization. Engaging the Prosecuting Attorney early in the process and seeking their advice at each key stage will help ensure that all

legal requirements are met, and that the separation is legally sound, minimizing the potential for future legal challenges.

BUDGETARY CONSIDERATIONS

Comprehensive Review of the Current Corrections Budget

The BOCC must consider and review the budgetary implications of establishing a new Department of Corrections. The review should identify all sources of revenue that support the Corrections Division within the Franklin County Sheriff's Office, as well as all categories of expenditures such as personnel costs, operational supplies, inmate care, and facility maintenance. Understanding the intricacies of this existing financial structure is a fundamental step in establishing a separate and financially viable budget for the new independent Corrections Department.

Process for Creating a New Budget for the Independent Corrections Department

Once the current financial landscape of the Corrections Division is fully understood, the BOCC will need to initiate the process of creating an entirely new and independent budget specifically for the newly established Corrections Department. This process will likely involve close collaboration between the board, the County Administrator, and potentially an interim or newly appointed head of the Corrections Department. The BOCC's core responsibility includes adopting a balanced budget for every county department. The development of this new budget will require careful consideration of the specific operational needs, staffing requirements, and anticipated expenses of the independent Corrections Department.

Mechanisms for Transferring Allocated Funds

With the new budget for the independent Corrections Department in place, clear and legally sound mechanisms will need to be established to transfer the allocated funds from the Franklin County Sheriff's Office budget to the budget of the newly created department. This might involve formal budgetary amendments approved by the BOCC, inter-departmental fund transfers overseen by the Board and the County Treasurer, or a combination of both. Establishing these procedures will ensure that the new Corrections Department has immediate access to the necessary financial resources to effectively commence and sustain its operations from its inception.

Identifying Potential Impacts on County Finances

The BOCC must also carefully analyze the potential impacts of separating the Corrections Department on the overall financial health of Franklin County. This analysis should consider potential cost savings that might arise from a more focused and

specialized management of the Corrections Department, as well as any potential increases in expenses associated with establishing a new administrative structure. Understanding these long-term financial implications is crucial for ensuring the sustainability of the reorganized governmental structure and for making informed decisions regarding the county's budget and the burden on the taxpayers.

EQUIPMENT AND ASSET TRANSFER

Conducting a detailed inventory of All Equipment and Assets

A critical step in the separation process is to conduct a comprehensive and detailed inventory of all equipment and assets that are currently utilized by the Corrections Division under the authority of the Sheriff's Office. This inventory should include, but is not limited to, all vehicles assigned to the Corrections Division, security equipment such as restraints and communications devices, weapons, electronic security systems and surveillance equipment, office furniture, fixtures, and any other tangible assets that are essential for the operation of the correctional facilities.

Determining the legal process for transferring control

Once the inventory is complete, the BOCC will want to determine if any further action is needed since all property is owned by the county. The resolution establishing the Franklin County Department of Corrections already transferred property from the sheriff's office. It is unlikely that further approval is needed from the sheriff, since all property is owned and managed by the county. Further, the Board of County Commissioners for Franklin County is ultimately responsible for the management of county property. What needs to occur at this point is an accounting of property so that the parties may abide by Resolution 2025-132 and any relevant orders of the Franklin County Superior Court.

Addressing logistical aspects of the transfer

In addition to the legal transfer of ownership or control, the BOCC must also address the practical and logistical aspects of physically transferring the identified equipment and assets. This will require careful planning to ensure the smooth movement of items, the accurate updating of inventory records to reflect the new departmental ownership, and confirmation that the newly established Department of Corrections has adequate space and infrastructure to properly accommodate and utilize the transferred assets. Logistical planning is essential to minimize any disruption to the ongoing operations of the

correctional facilities and to ensure that the new department can function effectively from the outset.

CONTRACTUAL OBLIGATIONS

Identifying all Existing Contracts and Agreements related to jail operation

The BOCC must undertake a comprehensive effort to identify all existing contracts and agreements that are currently in place and are related to the operations of the Corrections Division under the Sheriff's Office. This would include contracts for essential services such as inmate healthcare, food services, facility maintenance and repairs, laundry services, and any other agreements necessary for the day-to-day functioning of the correctional facilities. A complete identification of all such contractual obligations is crucial for understanding the existing commitments and for planning the transition of these responsibilities to the new independent Corrections Department.

Analyzing the Terms of These Contracts Regarding Assignment of Transfer

Once all the relevant contracts and agreements have been identified, the BOCC, with assistance from legal counsel, must carefully analyze the terms and conditions of each contract. This analysis should specifically focus on identifying any clauses that address the assignment or transfer of the contract to a different entity, such as the newly formed Corrections Department. It is common for contracts to include provisions that either permit or restrict assignment, and some contracts may require the explicit consent of the other contracting party before an assignment can be legally executed. Understanding these contractual terms is essential for determining the appropriate legal and administrative steps that will be required to effectively transfer these obligations to the new department.

Outlining the legal and administrative procedures for transferring contracts

Based on the analysis of the existing contracts, the BOCC will need to outline the specific legal and administrative procedures for either assigning or transferring these contracts to the newly established Corrections Department. This may involve drafting formal assignment agreements, negotiating amendments to the existing contracts with current vendors, or, in cases where assignment or transfer is not feasible or advisable, initiating the process of entering into entirely new contracts with service providers directly under the authority of the new Corrections Department. The decision on whether to transfer existing contracts or enter into new ones will likely depend on the specific terms of each contract, the relationships with current vendors, and the overall strategic goals of the board for the newly independent department. Ensuring the continuity of

essential services for the correctional facilities will be a paramount consideration throughout this process.

ADDRESSING POTENTIAL CHALLENGES

Inter-departmental Coordination and Communication

The separation of the Corrections Division from the Sheriff's office represents a significant organizational change that will necessitate coordination and communication with the Sheriff's office. It must be noted that these transfers do not always go smoothly, and establishing effective protocols from the onset will be priority for a smooth transition.

Personnel Management and Potential Impacts on Staffing

Transferring personnel currently assigned to the Corrections Division within the Sheriff's Office to the new independent department will require careful and thoughtful management. This includes clearly defining new job descriptions and reporting structures within the Corrections Department, addressing any potential impacts on employee benefits and seniority, and considering the implications for existing collective bargaining agreements, as Franklin County has a collective bargaining agreement in place for Corrections employees. Open communication with the affected staff, addressing their concerns, and providing clarity on their roles and responsibilities within the new organizational framework will be essential for maintaining morale and ensuring the continued operational effectiveness of the correctional facilities.

Recommendations and Next Steps for the BOCC

Based on the analysis presented in this report, the following recommendations and next steps are:

1) FORMAL LEGISLATIVE ACTION:

The Board should formally adopt a resolution declaring its intent to establish an independent Corrections Department, explicitly citing RCW 70.48.090(4) as the legal authority for this action. RCW 70.48.090(4) was cited in the first resolution establishing the Franklin County Department of Corrections.

2) LEGAL COUNSEL ENGAGEMENT:

The Board should continue to work closely with the Prosecuting Attorney to ensure all legal requirements are met throughout the separation process and to obtain guidance on drafting necessary legal documents.

3) BUDGETARY PLANNING:

Initiate a review of the current Corrections Division budget and begin the process of developing a comprehensive and independent budget for the new department, in consultation with the County Administrator as well as the new leader of the Franklin County Department of Corrections.

4) ASSET INVENTORY:

Task relevant county staff with conducting a thorough and detailed inventory of all equipment and assets currently used by the Corrections Division.

5) CONTRACT REVIEW:

Direct county Staff to identify and analyze all existing contracts and agreements related to the operations of the Corrections Division, paying close attention to clauses regarding assignment, transfer, and termination.

6) COMMUNICATION STRATEGY:

Establish clear and consistent communication protocols between the BOCC and all other applicable departments, including the Corrections Department, Sheriff, Prosecuting Attorney, Information Services, and more.

CONCLUSION

Establishing a stand-alone Department of Corrections from the Sheriff is a legally permissible action under Washington State law, specifically authorized by RCW 70.48.090(4). The BOCC has the authority to initiate this reorganization. By following a systematic approach as called for in this document, the BOCC can establish a well-functioning independent Corrections Department that effectively serves the needs of Franklin County.