

**COUNTY OF SACRAMENTO
CALIFORNIA**

For the Agenda of:
December 7, 2022
11:00 AM

To: Board of Supervisors

From: Ann Edwards, County Executive
Eric Jones, Deputy County Executive, Public Safety and Justice

Subject: Report On Population Reduction Efforts And Request For Direction On Steps To Address Jail Facility Deficiencies For Mays Consent Decree Compliance

District(s): All

RECOMMENDED ACTION

1. Direct staff to continue implementation of jail population reduction plans and return with reliable cost estimates and timelines for planned expansion efforts in Spring 2023; and
2. Direct staff on desired action to address jail facility deficiencies for Mays Consent Decree compliance.

BACKGROUND

Mays Consent Decree

Sacramento County was notified by advocates in 2014 about concerns regarding conditions of confinement related to medical care, mental health care, out of cell time, Americans with Disability Act (ADA) compliance, and Health Insurance Portability and Accountability Act (HIPAA) compliance in jail facilities. Experts who inspected Sacramento County jail facilities found unconstitutional conditions in custodial areas. After years of negotiations, Class Counsel filed action against the County in 2019. The matter resolved and a court order, the Mays Consent Decree, was issued in January 2020.

The Mays Consent Decree requires the County to provide constitutionally adequate care and conditions of confinement to Sacramento County jail inmates. This consent decree applies to both the Main Jail and the Rio Cosumnes Correction Center (RCCC). The County's compliance with the Consent Decree is monitored by the Prison Law Office, Disability Rights of California, and the Law Office of Aaron Fischer, collectively Class Counsel.

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Monitors also include subject matter experts in mental health care, medical care and suicide prevention.

The monitors are required to inspect the jails and provide reports every six months to the Federal Court which oversees the Consent Decree. Each report submitted has found that the County is not in compliance with many of the provisions of the Consent Decree. Expert reports have consistently recognized staffing challenges and physical facility limitations as major impediments to achieving full compliance.

In June 2022, following several reports from experts, the County and Class Counsel entered into a subsequent Memorandum of Agreement (MOA) aimed at implementing foundational remedial measures regarding mental health care and suicide prevention. The MOA recognized the importance of developing plans for jail population reduction efforts, as well as a plan to remedy physical plant deficiencies impacting delivery of care.

September Workshop

On September 14, 2022, the County held a workshop with the Board of Supervisors to share the status of ongoing efforts to identify and address criminal justice system issues, including those specified in the Mays Consent Decree. This presentation reflected the County's extensive collaboration with justice partner agencies, including committees, consultants, and workgroups to develop new strategies and implement expert recommendations heavily focused on safely reducing the jail population to support compliance with the Mays Consent Decree and in alignment with shared public safety goals. The County's presentation also included the results of consultant studies, including studies by experienced architecture firm Nacht and Lewis, and criminal justice data analytics expert Kevin O'Connell.

The County tasked Nacht and Lewis with determining the number of inmates the Main Jail can house to comply with the Consent Decree. Nacht and Lewis determined that approximately 1,000 inmates would have to be diverted from the Main Jail for the building to come close to compliance with the Consent Decree. Nacht and Lewis further determined that even removing or diverting that number of inmates still leaves many areas of noncompliance because of failure to meet ADA and HIPAA requirements, such as the booking loop.

The County asked Mr. O'Connell to determine the reasonable number of inmates that the County could deflect or divert from the County jails through alternatives to incarceration. Mr. O'Connell determined that the County's justice system could reasonably divert up to 600 inmates by implementing ten recommendations. The diversion of these inmates from custody in many

cases requires the Courts and the District Attorney to accept and approve the alternatives to incarceration. Even if the County and its partners were able to implement and expand the identified diversion efforts, the number of inmates diverted does not meet the threshold that Nacht and Lewis has found is the minimum number necessary to come closer to complying with the Consent Decree.

The validity of the methodologies used in both the Nacht and Lewis and O'Connell reports was supported by a peer review report from Wendy Still, a long-time corrections administrator experienced in correctional design and jail diversion programming.

During the September workshop, County staff noted that they would return to the Board of Supervisors later in the year to recommend a plan for jail population reduction measures and a plan for remedying physical plant deficiencies that impede Consent Decree implementation. Public comment received during the September workshop, as well as input received from community members and justice system partners through commissions and advisory boards, employee forums, and direct submissions to the Public Safety and Justice Agency's email, have been invaluable in developing these plans.

Jail Population Reduction Plans

To comply with the MOA requirement that the County develop a plan for jail population reduction measures to include funding and an implementation schedule for such measures by October 2022, County staff built upon the ten recommendations identified in the O'Connell report. O'Connell's recommendations for deflection and diversion are divided into two categories: 1) reducing jail admissions; and 2) reducing lengths of stay and returns to custody. Collectively, the County's implementation plans include 18 programs and/or services that the County has already funded and begun implementing, as well as 15 recommended program and service expansions.

The County identified 10 existing efforts as well as three expansion plans to achieve O'Connell's recommendations for reducing jail admissions. Once fully implemented, O'Connell estimates that jail admission reduction efforts will reduce the jail system's average daily population by 117. Additionally, the reduction in the Federal jail bed contract, which was not reflected in the O'Connell recommendations, will further reduce the jail's average daily population by 200. Several of the expansion plans, such as identifying alternative booking sites and enhancing citation and field release protocols, will require extensive collaboration with and support from local Law Enforcement Agencies.

The County identified eight existing efforts and 12 expansion plans to achieve O'Connell's recommendations for reducing lengths of stay and returns to custody. Full implementation of efforts to reduce lengths of stay and returns to custody are estimated to reduce the jail system's average daily population by 475. Many of the expansion plans, such as expansion of collaborative and diversion courts, warrant reductions, and the development of risk assessments and screening protocols will require a shared commitment from the Superior Court as well as the County's internal justice system partners to accomplish.

The County published its initial Jail Population Reduction Plans to the Public Safety and Justice Agency website on October 28, 2022, along with a request for community input. The Jail Population Reduction Plans were shared on social media and provided to community-based organizations, internal and external justice system and social services partners and employees, and various County committees and advisory boards, including the Public Safety and Justice Agency Advisory Committee established earlier this year. Based upon the stakeholder feedback received, including feedback from Class Counsel, the Jail Population Reduction Plans were further refined and are attached hereto as ATT 2 - Jail Population Reduction Plans, Revised December 2022). Notable additions include the development of a public-facing jail population dashboard, expansion of services during jail releases, and an emphasis on identifying opportunities for future prevention-focused efforts in coordination with Sacramento County's Social Services partners.

Due to the complexity of multi-agency coordination necessary to implement all 15 program and service expansion plans, staff anticipates that full implementation will take several years. The Public Safety and Justice Agency intends to publish quarterly reports on the progress of each identified program and service, with the initial progress report to be published following the conclusion of the first quarter of 2023. The 2023 Q1 report will include implementation timelines and resource needs for each of the 15 expansion plans. The 2023 Q1 report will also identify metrics to track and monitor plan implementation.

Physical Plant Deficiency Remediation Plan

To comply with the MOA requirement that the County develop a plan for remedying physical plant deficiencies that impede Consent Decree implementation, the County retained Nacht and Lewis to build upon their previous studies as well as the population reduction strategies in the O'Connell report. Taking these two previous reports together, the County was left with the conclusion that it could not reasonably release enough inmates to achieve compliance with the Consent Decree through population reduction efforts alone.

Nacht and Lewis was tasked with studying the impacts of jail population reduction strategies on the numbers and types of beds needed; analyzing which of the Consent Decree's medical and behavioral health requirements can and cannot be accommodated in the Main Jail after population reduction strategies have been implemented; and exploring various options and cost estimates for a new facility or facility addition based on the results of this analysis. The resulting report is attached hereto as ATT 3 – Jail Facilities Population Reduction Impacts Study Report. Nacht and Lewis, through their consultants Jay Farbstein & Associates and Falcon Correctional & Community Services, Inc., supplemented their report with information that aids in supporting the County's jail population reduction plans. This additional information describes the elements desired in developing an integrated resource center, similar to elements of the Bexar County Model, to provide care coordination for County residents whose behavioral health crises are likely to result in imminent contact with the justice system.

Based on the analysis performed, Nacht and Lewis identified five options for capital improvements to achieve Consent Decree compliance following full implementation of all jail population reduction strategies. All proposed options will reduce the bed capacity in the jail system. The five options are as follows:

1A. Construct an Intake and Health Services Facility on the Main Jail's Bark Lot. This provides a building addition on adjacent, existing County property to accommodate the Consent Decree requirements that cannot be met in the renovated Main Jail. These would include a new booking loop, medical clinic, and medical housing, as well as the housing units for patients requiring higher levels of mental health care (Acute Inpatient Unit and Intensive Outpatient Program). Staff refer to this option as the Intake and Health Services Facility.

1B. Construct a building addition at RCCC to accommodate those patients whose clinical acuity requires higher levels of care (Acute Inpatient Unit and Intensive Outpatient Program).

1C. Construct a new building at a separate location (to be determined) to accommodate those patients whose clinical acuity requires higher levels of mental health care (Acute Inpatient Unit and Intensive Outpatient Program). As a stand-alone facility, this option would require duplication of substantial medical, ancillary, and custodial support services.

2A. Replace the entire Main Jail with a new facility that would not only include the needed beds currently located in the Main Jail but also additional space requirements to satisfy the Consent Decree.

2B. Replace the Main Jail and RCCC with a new facility that would replace beds currently located in the Main Jail and RCCC plus additional space requirements to satisfy the Consent Decree.

Nacht and Lewis evaluated each option's effectiveness in achieving compliance with the requirements of the Consent Decree, impacts on healthcare staffing and operations, impacts on staffing and operations for the Sheriff's Office, time needed for completion, and capital and operating costs. This evaluation scored Option 1A, construction of an Intake and Health Services Facility on the Main Jail's Bark Lot, the highest of all five options.

As the design and construction of an Intake and Health Services Facility is estimated to take 60 months (five years), compliance with the Consent Decree will be improved by two additional and related construction projects that can be completed more quickly.

First, the County will need to construct two control rooms at RCCC. These control rooms will provide higher-level security monitoring for barracks C, D, G, and H. Once completed, barracks C, D, G, and H at RCCC will be sufficiently secure to accommodate the inmates currently housed in the 3rd floor, 300 West Pod at the Main Jail. The 3rd floor, 300 West Pod may then be converted to an acute psychiatric unit (known as the "3P Project"). Together, these projects are expected to take 32 months to complete. The 3rd floor, 300 West Pod conversion project is inadequate to meet all conditions of the Consent Decree for this population, but provides an interim solution to improve treatment and the conditions of confinement for patients with acute psychiatric needs while the Intake and Health Services Facility is constructed.

Based on the evaluation provided by Nacht and Lewis as well as stakeholder input, County staff recommend the Board of Supervisors to direct staff to move forward with planning the following:

- Construct two control rooms at RCCC and convert the 3rd floor, 300 West Pod ("3P Project") at the Main Jail to an Acute Psychiatric Housing Unit (32 months); and
- Construct Option 1A, an Intake and Health Services Facility on the Main Jail's Bark Lot (60 months).

The movement of the Acute Psychiatric Unit from the 2nd floor to the 3rd floor also permits that space to be used for medical observation, specifically withdrawal management. While it does not meet all needs for medical observation, it provides an interim measure for this Consent Decree requirement. Together, these construction projects are more cost-effective than building a new jail, will retain the central location of the jail, and will capitalize on existing resources. The Intake and Health Services Facility best achieves Consent Decree compliance by prioritizing a HIPAA and ADA-compliant booking loop and providing sufficient space to care for a jail population with enhanced medical and behavioral health needs. While this facility is planned and built, constructing control rooms at RCCC and converting the 3rd floor, 300 West Pod will provide improved conditions of confinement for patient-inmates with the highest level of need.

FINANCIAL ANALYSIS

Jail Population Reduction Plans

County staff are coordinating with justice system partners to develop reliable cost estimates for additional facility, supply, process changes, and/or staffing needs associated with the 15 program and service expansions. Identified resource needs will be included as Fiscal Year 2023-24 budget requests.

Physical Plant Deficiency Remediation Plan

Costs to implement staff's recommendation for facility remediation are estimated to be \$464.1 million. This includes \$450 million for the development of an Intake and Health Services Facility in the Main Jail "bark lot;" \$8.4 million for the conversion of the 3rd floor, 300 West Pod into an acute psychiatric unit; and \$5.7 million to add two control rooms serving barracks C, D, G, and H at RCCC to facilitate inmate transfers from the Main Jail. Costs to implement alternative recommendations could potentially exceed \$1.81 billion.

Attachment(s):

ATT 1 – Sacramento County Jail Fact Sheet

ATT 2 – Jail Population Reduction Plans, Revised December 2022

ATT 3 – Jail Facilities Population Reduction Impacts Study Report