

DECARCERATE SACRAMENTO

TUESDAY, OCTOBER 17TH 2023

2:30pm — item #45

STOP THE BILLION-DOLLAR JAIL EXPANSION

Demand that the County Abandon & Reject all Contracts with Nacht & Lewis—their analysis recommending jail expansion is faulty!

& Urge the County to meet Mays in the current building and prioritize decreasing the jail population!

700 H ST, Sacramento, CA

JOIN US FOR IN-PERSON PUBLIC COMMENT

CALLING-IN FOR PUBLIC COMMENT HAS BEEN ENDED BY BOARD CHAIR RICH DESMOND

So calling-in for public comment is no longer an option, sadly.

Watch the meeting live: <http://metro14live.saccounty.net>

[View the agenda here](#)

And **Send Emails** before Tuesday to: BoardClerk@saccounty.net

Supervisor Pat Hume: PatHume@saccounty.gov

Supervisor Phil Serna: SernaP@Saccounty.net

Supervisor Patrick Kennedy: KennedyP@saccounty.net

Supervisor Rich Desmond: desmondrf@saccounty.gov

Supervisor Sue Frost: frostsu@saccounty.gov

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Talking Points/Demands

1. [Mays Consent Decree¹: Can be met in the current jails—without a jail expansion!](#)
2. [Nacht & Lewis' \(N&L\) architectural studies were biased, incomplete & faulty! Their conclusion that jail expansion is needed was based on miscalculations, inaccurate information and inflation of certain populations.](#)
3. [We Cannot Afford the Obscene, Fiscally Irresponsible Cost: Almost \\$2 Billion dollars over 30 years.](#)

¹Sacramento County was sued by three law firms on behalf of everyone incarcerated in Sac County jails. This class-action lawsuit is called Mays v. Sacramento. In 2020, the Mays consent decree was finalized, which outlined that the County has to improve conditions in the jail related to medical and mental health care, suicide prevention, the Americans with Disabilities Act (ADA) and HIPPA (medical privacy laws). Since then, the vast majority of consent decree requirements (unrelated to building structure), are far from being met.

1. Mays Consent Decree: Can be met in the current jails—without a jail expansion!

- The county is planning to build a jail annex solely because they believe it is needed to meet the Mays Consent Decree.
- The **Mays consent decree does not require a new building**—the legal requirements can be met without a new building.
 - The County's Jail Population Reduction plan (to decarcerate 600-700 people from the jail) would open up more than enough space to make adequate room for the demands of Mays in the existing jail. These demands such as group therapy rooms, recreation, segregation requirements between SMI classification with single bunk requirements, and increase of Medical beds would all be able to fit if the county followed through with O'Connell's plan, but the county has not done any of it yet, even though county staff agreed with the population reduction plan.
- A new jail building would not solve the Mays Consent Decree: **only 1.4% of consent decree requirements are related to physical space limitations** of the current jail buildings and these can be solved with renovation/repurposing of current space.
- The County should prioritize meeting the lawsuit WITHOUT a new building.
- The County is actually required to make ADA and HIPAA retrofits in the current building *regardless* of any new building, but we recently learned that the **over \$10Million dollars that was allocated for ADA improvements in the current Main Jail was moved (without board approval) to the jail expansion project**. The county has had over 3 years to make simple improvements (like installing grab bars in bathrooms and confidential interview booths for patient visits) in the Main Jail, but it's clear that accessibility is not their priority— their priority is jail expansion.

2. The architectural studies done by Nacht & Lewis' were biased, incomplete & faulty! Their conclusion that jail expansion is needed was based on miscalculations, inaccurate information and inflation of certain populations.

- The study done by Nacht & Lewis—the firm that designed the new jail annex—did not accurately explore how to meet legal requirements in the current jail building.
- The Board of Supervisors can choose to meet the Mays consent decree without a new jail building—a new building is not required.
- The lawyers representing the class-action Mays lawsuit stated in a letter to the Board that *“while remediation of physical plant deficiencies is essential, the Mays Consent Decree does not require the County to build additional jail beds or engage in any particular form of construction. It requires the County to meet minimum conditions for the people it chooses to incarcerate. The County is free to determine the manner in which to comply with those legal obligations.”* (page 2)
- **The Board & public has been deceived by Nacht & Lewis.** We cannot trust N&L's architectural studies that said jail expansion was needed:
 - **Nacht&Lewis miscalculated available jail space in their “studies” recommending jail expansion:**
 - There are 6 pods on each floor of the Main Jail. **Each floor has a capacity of 398 beds.**
 - In their March 2022 study, N&L tried to figure out how to fit the various

classification of SMI (Serious Mental Illness) populations in the jail while maintaining segregation. In their plan they state “IOP males were assigned to 300W, 100E, and 200E on 3rd through 6th floors”. Pod 300W has 40 cells, 100E has 30 cells and 200E has 32 cells (see above photo). **This combined is 102 cells per floor.** This means using “300W, 100E, and 200E on 3rd through 6th floors”, which is 4 floors total would equate to 408 individual cells, OR 816 beds.

- According to population study by N&L, there are 107 IOP Males that need IOP housing, **meaning that N&L allocated 408 individual cells for 107 individuals.**
- Nacht & Lewis concluded that there is not enough space in the Main Jail, even after population reduction, to meet consent decree requirements: because they misrepresent the actual space available in the Main Jail.
- They are not planning a “small 3-story annex”, but a 9 story tower about the same size as the current Main Jail
 - Nacht & Lewis **lists the jail annex square footage as 242,676 square feet**, up from the 60,000 square foot plan in their 2018 report. For reference, the current Main Jail total square footage is **373,170 square feet. This means Nacht & Lewis’ plan is to almost DOUBLE the existing square footage of the Main Jail.**
 - A quick analysis of square footage of the bark lot shows that this building would be **9 floors high at a minimum.** N&L claims this space is required to comply with Mays consent decree requirements for medical beds, group therapy (out of cell time), and SMI classification segregation—But their square footage analysis is faulty, and that after implementing O’Connells jail reduction plans that are already approved by the county, we will not need any additional space added to the Main Jail to comply with Mays spatial requirements.
- **Nacht & Lewis inflated MH bed needs**
 - In March of 2022 N&L stated that we would need **34** total Acute Inpatient (AIU) and **120** IOP. These numbers here already included buffers for max capacity.
 - *Just 7 months later*, Nacht & Lewis significantly bumped the capacity for AIU and IOP bed allocations: from 31 to **57** AIU beds, and from 120 to **199** IOP beds. N&L frequently inflates their numbers throughout their reports, with weak justifications to suggest to the county we need to build bigger.
 - What changed so drastically in 7 months to create a **69% increase in AIU and IOP bed needs?** This was not explained by Nacht & Lewis. These discrepancies showcase N&L’s unreliability. It’s also important to note that **these numbers increased after O’Connells report.** N&L claimed that O’Connells population reduction plan would have no effect AT ALL on the SMI population. This is in direct conflict with O’Connells and other expert conclusions.

- A new independent architectural study is needed with a specific scope of work to examine options for meeting ADA & HIPAA in current building and RCCC with significant population reduction.

3. We Cannot Afford the Obscene, Fiscally Irresponsible Cost: Almost \$2 Billion dollars over 30 years.

- Based on Nacht & Lewis's proposal for the jail annex, it would cost Sacramento County **\$3,811 per square foot** with the approved \$915 Million price tag (925000000/242676=\$3811). This is **7x** the expected cost of a medical facility built in New York City and **12x** the national average. Even if we assume \$654M cost, this would still cost \$2,695 per square foot, which is **9x** the national average of building costs.
- But do jails typically cost more to build than hospitals? No. Jails are typically cheaper than hospitals at around \$200-\$400/sqft.²

What's the Solution? Decarceration.

- Literal quotes from the attorneys suing the county in the Mays lawsuit (that is causing the jail expansion plan):
- "Ultimately, the County will not be able to meet its legal obligations without meaningfully reducing the size of the jail population."
- "At core, the County has failed to meet the obligations of the Mays Consent Decree because the needs of the population chronically and substantially outstrip the jail's staffing and space resources."
- "Class counsel, federal court-appointed subject matter experts, and independent consultants have all identified excessive population as a cause of dangerous and illegal conditions in the jails."

Core Decarceration Strategies:

- 1. Expand PRE-TRIAL Release and & Diversion**
- 2. Invest in MENTAL HEALTH DIVERSION & PREVENTION and Community-Based Mental Health Centers**
- 3. Change County Courts and Probation WARRANT Processes and Practices**
- 4. Implement JAIL DISCHARGE & REENTRY Systems that ensure dignity and care**
- 5. Build Affordable & Free Publicly-Owned HOUSING**

1. Expand Pretrial Release and & Diversion

- **Over 75% of the jail population is pre-trial**, meaning they have only been accused of a crime

² <https://www.rsmeans.com/model-pages/jail>

- **Fully Fund & Expand The Public Defender's Pretrial Program**
 - Funding innovative, pretrial service models that uphold the presumption of innocence and take a public health approach will increase cost-savings from jail population reductions while ensuring public safety.¹
 - **The Public Defender's PreTrial Support Project supports the County's goals of reducing the jail population, promoting public safety and addressing racial inequity within the criminal justice system.**
 - **Sac County jails are 38% Black and 70% people of color.** By providing early intervention, PTSP seeks to "identify and implement solutions to eliminate institutional, structural, and systemic racial inequity in all community services provided by the County" as the Board of Supervisors November 16, 2020 Resolution – Declaring Racism a Public Health Crisis – tasks the county to do. Probation's Pretrial Services costs \$1 for every six cents for the Public Defenders' Pretrial Support Program.
 - The Public Defender's Office continues to allocate significant portions of their budget to client services, not just staff time.
 - **62% of the Sac County jail pretrial population has been diagnosed with a mental illness.** The Public Defender's program connects individuals to mental health services through licensed social workers. This helps address the root cause of their arrest and improves public safety with a public health approach!
 - The Public Defenders humanize their clients—they successfully advocate for individuals' release by understanding and uplifting the whole picture of their client's arrest.
- **End Probation's Pretrial Punishment Program**
 - **Probation's Risk Assessment Tool is Racist!**
 - Risk assessment tools base their results on existing criminal justice data, which in turn reflect years of biased policing and racial disparities. And ultimately, final decisions over detainment or release are made by people, who are subject to bias. Thus, while risk assessment tools give the impression of fairness, how fair they are in practice depends on the historical data they are based on, as well as the individual using the tools.
 - **Probation is a driver of Mass (Re)Incarceration.**
 - Probation agencies are law enforcement agencies
 - **84% of the previous Probation-led pretrial pilot funding went to hiring staff—not to services for individuals in the program**
 - Probation Departments' *job is to criminalize, surveil, and set us up to fail.*
 - **On Probation's Program, simple mistakes and structural barriers can easily land someone back in jail:**
 - A battery problem with an ankle monitor, a missed appointment due to transportation, child care, or health issues, or *dozens of other "technical violations" that have nothing to do with public safety.*
 - *Probation keeps people on pretrial way longer than they should be.* These individuals are innocent, but have arbitrary terms that they are forced to follow until they're released from the program, which could be years.

- **Probation does not release individuals to any support after their program.**
- **Probation's Pretrial Program goes against the will of California voters.** This pilot program was a response to SB10 and is essentially the same as the system proposed by Prop 25, with its use of biased risk assessment tools (RATs) and unchecked power to probation departments. In November 2020, California voters overwhelmingly rejected that system. *Voters in 13 of 16 counties (81%) who had existing probation-led pretrial programs rejected Prop 25*, stating they did not want an expansion of probation-led pretrial programs and biased RATs. What counties desperately need are flexible pretrial services dollars that fund community-based services, which are empirically proven to be more cost effective.
- **The presumption of innocence is a basic right provided by our Constitution. The County's proposed expansion of Probation's pretrial pilot program is a threat to this fundamental constitutional right.** Probation Departments are law enforcement agencies that should not be supervising or engaging with individuals in the pretrial phase of presumed innocence. Law enforcement supervision and the onerous conditions of release triggered by this model compromise an individual's right to a fair trial and perpetuate over-incarceration by creating a scenario where individuals can be detained for missing a court date due to childcare issues, employment conflicts and other basic life challenges.
- **Probation's Pretrial Services costs \$1 for every six cents for the Public Defenders' Pretrial Support Program.** And, the Public Defender's Program is mostly funded by grants outside of the county's general fund, with uncertainty on the sustainability of funding.
- Read more on the harms of Probation: <https://www.justice2jobs.org/blog-1>

2. Invest in **MENTAL HEALTH DIVERSION & PREVENTION** and Community-Based Mental Health Centers & Expand access to **Residential Substance Use Treatment Services & Harm Reduction**

- Expand Felony Mental Health Diversion programs in Public Defender's Office
- Decriminalize Mental Illness: Alternative to 911/Alternative Crisis Response
- Decriminalize drug use: [Studies show](#) that jail diversion programs for persons with serious mental illness and co-occurring substance use disorders reduces time spent in jail **without increasing the public safety risk**, while linking participants to community-based services.
- **70% of the jail population is diagnosed with a mental health condition**
 - All could be candidates for MH diversion, but there is a 3 month waitlist just to be assessed.
- Individuals can get the treatment they need through expanding access to MH services in the community and expanding existing jail diversion programs.
- **82% of the Pre-Trial population has a diagnosed "Serious Mental Illness"**
- Nearly **32%** of the individuals booked into jail for a new crime are arrested for drug- or alcohol-related crimes. ([pg 35](#))
- **30% of bookings related to statutory violations of drug or alcohol laws**, indicating substance use needs. ([pg 36](#))
- On any given day **45% of the jail has some combination of substance use disorder and/or an SMI.** ([pg 36](#))
- Currently a **40% vacancy of MH counselors** in Sacramento County.

- Nationally:
 - Overdose is the leading cause of death in jails/prisons
 - **Overdose is 3x higher for people in prison**
- **The County does not understand the potential of felony MH diversion**
 - No county report or plan so far has included a serious examination of the potential for expanding current felony mental health diversion programs in the county that have the potential to divert hundreds of people from the jails.
 - A large body of scientific research shows that jail diversion reduces time spent in jail without increasing the public safety risk and actually reduces crime
 - **62% of people in the jails currently are diagnosed with mental illness**
 - **35% of the Pre-Sentenced population has a Serious Mental Illness**
 - The county can and should scale up funding significantly for existing Mental Health Diversion programs
 - **Penal Code 4011.6** gives authority to the courts or the sheriffs to transfer people with mental illness in the jails to a different facility)
 - **Penal Code 1001.36** is the California statute that provides for mental health diversion. This program allows some people with mental health issues to receive treatment in lieu of prosecution and jail when they are charged with a crime.
 - If the legislator believed that it was appropriate to treat people in the county jail in an acute psychiatric state, then these penal codes would not exist: allowing the courts and the sheriff to transfer individuals to an outside hospital to receive care.
 - The county's mental health treatment center already has an acute psychiatric facility that could be restored to 100 beds without any new construction. Existing law, and local legal system practices for decades now, allow for people with serious mental illness to be transferred to outside facilities for psychiatric care. We are not short acute psychiatric beds in this county, so why would we build more in a jail setting?
 - In 2018, Governor Brown created Mental Health Diversion (AB 1810) to provide a method for defendants suffering from mental health diagnoses to avoid criminal records and punishment for crimes committed as a result of their mental health disorders.
 - Sacramento County now has four different Mental Health Diversion programs, three of which serve people charged with felonies.
 - The EMPOWER program serves 100 people per year with a grant from the Department of State Hospitals.
 - **In December of 2022 there were 91 people in Felony Mental Health Diversion, while over 230 people were on the waitlist while incarcerated.** And that's just the people who have been assessed and a court has determined they qualify for diversion. If this program was fully funded, hundreds more people with severe mental illness could be decarcerated from the jail to receive the care they need.

- **Delivering the program costs about \$100,000 per year. Less after MediCal reimbursement.** This amount includes housing for those that need it.
 - Recent Sheriff's data shows that **90% of the pretrial population have a Severe Mental Illness**. This is currently about 850 people. Over 8 times more than this program is serving currently.
 - If the Board of Supervisors invested Millions of our public dollars into staffing for felony mental health diversion programs, these programs could scale up to meet the need and stop the cycle of criminalization for thousands of people with severe mental health needs.

3. **Change County Courts and Probation WARRANT Processes and Practices**

- Ensure that Probation Database is updated to ensure individual probation terms are accurate (especially with new laws like AB1950)
 - 40% of jail population is booked for Warrants & Rule violations (probation/parole)
 - **"40% of jail bookings do not involve a new crime"**: 57% of which are Warrants and 21% Probation/Parole Violations (this alone is over 680 people in the current jail population as of 2022).
 - 52% of people re-entering Sac County jails during a five-year study period were not booked for a new crime, but for probation violations and warrants. ([pg 36](#))

4. **Implement JAIL DISCHARGE & REENTRY Systems that ensure dignity and care**

- 55% of people booked are released within 3 days (most often with no supportive services)
- **70% of the jail population is released within 10 days**

5. **Build Affordable & Free Publicly-Owned HOUSING**

- 30% of people released from jail are likely unhoused ([pg 36](#))
- 52% of misdemeanors
- A recent study found that **1 in 5 Californians experiencing homelessness came from an institution** such as prison or jail.