

**COUNTY OF SACRAMENTO
CALIFORNIA**

For the Agenda of:
September 14, 2022
2:00 PM

To: Board of Supervisors

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

Subject: Mays Consent Decree Workshop: Expert Reports, Criminal Justice Issues And Reforms

District(s): All

RECOMMENDED ACTION

Receive the Public Safety and Justice Agency presentation regarding the status of the Mays Consent Decree, expert reports, criminal justice issues and reform efforts.

BACKGROUND

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 county jail facilities found unconstitutional conditions in custody. After years of negotiations, Class Counsel filed action in 2019. The matter resolved and a court order, the Mays Consent Decree, was issued in January 2020.

In recent years, there have been ongoing efforts to identify and address criminal justice system issues including those specified in the Mays Consent Decree. County and justice partner agencies have collaborated extensively on many committees, consultant studies, 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 shared public safety goals. The Board was previously updated on status of efforts to reduce the jail population, Mays Consent Decree remedial plan requirements, and the jail mental health population on March 10, 2021. The Board requested the Office of the County Executive provide another update on the status of compliance with provisions of the Mays Consent Decree.

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. 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 to the Federal Court which oversees the Consent Decree every six months. To date, the monitors have provided three reports to the Court. Each report has found that the County is not in compliance with most of the provisions of the Consent Decree. In each report, the experts and counsel have found that one of the primary obstacles to compliance is the physical limitations of the Main Jail.

The Office of County Counsel, in coordination with the Office of the County Executive and the Department of General Services, retained Nacht and Lewis and Kevin O'Connell for the purpose of determining if it is possible to reduce the Main Jail inmate population to a point where there is compliance with the Mays Consent Decree. The County tasked Nacht and Lewis, and architecture firm with extensive experience with jails, with determining the number of inmates the Main Jail can house to comply with the Consent Decree. The County asked Mr. O'Connell, a criminal justice data analytics expert who has partnered with the County on the Data-Driven Recovery Project, to determine the reasonable number of inmates that the County could divert from the County jails through alternatives to incarceration.

Nacht and Lewis determined that approximately 1000 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.

Mr. O'Connell determined that the County's justice system could reasonably divert up to 600 inmates. 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.

Staff, at the direction of the Board, had these reports reviewed by Wendy Still. Ms. Still is a long-time administrator in corrections and has worked extensively in correctional design. She also served as the Probation Chief for the City and County of San Francisco and for Alameda County. In that capacity she was responsible for jail diversion programming.

Ms. Still determined that the methodologies used by Nacht and Lewis and Mr. O'Connell to reach the conclusions in their respective reports was sound. She further determined that the methodologies support the ultimate conclusions provided in both reports. Ms. Still emphasized that all system partners must be in full agreement and supportive of the suggested programs, in order to reach the numbers of inmates diverted from custody that Mr. O'Connell concluded was reasonable.

Now that the Nacht and Lewis and O'Connell reports have been peer reviewed and both experts have had an opportunity to consider Ms. Still's report, these reports are no longer in draft form. Therefore, they are public record. The County agreed to Class Counsel these reports would be made public and that the County would consider public comment regarding the content and conclusions in the reports. In order to meet these promises, staff have posted a link to these reports on the Public Safety and Justice Agency website and seek input through today's workshop. Additionally, based on the expert reports as well as workshop input and feedback from relevant stakeholders, the County will develop a plan for jail population reduction measures and a plan for remedying physical plant deficiencies that impede Consent Decree implementation.

FINANCIAL ANALYSIS

There is no fiscal impact related to receipt of this Mays Consent Decree workshop presentation. Costs for implementation of plans for jail population reduction measures and physical plant deficiency remedies are currently unknown. Staff will return to the Board with costs estimated for implementation of these plans when they become available.

Attachment(s):

ATT 1 - Class Counsel Letter

ATT 2 - Nacht and Lewis Report

ATT 3 - O'Connell Report

ATT 4 - Still Sacramento County Peer Review Report

PPT - Criminal Justice System Reforms and Issues