



PRISON LAW OFFICE



May 15, 2024

VIA EMAIL

Amanda Benson
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Thien Ho
District Attorney, Sacramento County
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Re: Sacramento County Jail Population & Superior Court Review Process
***Mays v. County of Sacramento* (E.D. Cal., No. 2:18-cv-02081-TLN-KJN)**

Dear Ms. Benson and Mr. Ho,

We are class counsel in *Mays v. County of Sacramento*, a federal class action lawsuit against Sacramento County. As you might know, in 2018, we filed this lawsuit against the County about unconstitutional and unlawful conditions in the Sacramento County Jail. In 2020, the parties agreed to a Consent Decree covering a number of issues in the Jail, including the Jail’s provision of medical and mental health care, its suicide prevention practices, its treatment of people with disabilities, and its practices around the use of solitary confinement. Since 2020, we and court-appointed experts have been closely monitoring these conditions in the Jail. After years of monitoring, the situation remains dire. People detained in the Jail are still being subjected to dangerous and unlawful conditions that fall short of basic constitutional standards. One of the most significant barriers to improving these conditions is the extraordinary number of people in the Jail.

Over the last year and several months, the County has made some efforts to reduce the total population, but those efforts have been unsuccessful. In particular, the Jail population remains virtually unchanged in the last 15 months. We are seeking to understand the reasons why the Jail population remains static despite the County’s efforts. We are focusing our investigation on the largest demographic at the Jail—people who are pretrial and charged with felony offenses. As part of our investigation, we are hoping to learn more about the process called “Superior Court Review” (SCR). Specifically, we have questions about the history of the SCR, the legal basis for the process, and how it might be impacting the Jail’s population.

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BRIEF BACKGROUND

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 Jail. All parties, including the County, acknowledge the population in the Jail should be reduced. In March 2022, the County contracted with an architectural design firm to conduct an analysis of the Jail's population and to determine how many people could be safely housed in the Jail under the conditions required by the Consent Decree.¹ The authors' analysis concluded that the Sheriff's Office must dramatically reduce the population to reach compliance. The study found that, in order to meet the needs of just one subpopulation in the Jail—people with serious mental illness, the Sheriff's Office would need to reduce Main Jail's total capacity by over 1,000 beds.² A second consultant conducted a study in May 2022 analyzing the Jail's population to determine how many people can be safely released or diverted from the Jail.³ That study concluded that, on any given day, almost 600 people can be safely diverted out of the Jail.⁴ Taken together, these studies indicated that the population of the Jail must be dramatically reduced, and that the County could make serious headway toward that goal with several, realistic policy decisions.

In response to these two studies, the Board of Supervisors approved in December 2022 a Jail population reduction plan that included 33 initiatives.⁵ Those initiatives spanned the criminal legal system and included allocating funding for mobile crisis response teams, expanding the warrant diversion efforts, and allocating funding for reentry programs, among others. While those initiatives were well-intentioned and might be providing relief to some people, they have not meaningfully reduced the Jail's population. On January 1, 2023, three weeks after the Board approved the population reduction plan, the Jail's total population was 3,176. On April 1, 2024, the Jail's population was 3,138, a total reduction of 38 people in 15 months. In fact, over the last several months, the population has steadily increased—3,088 people in the Jail on January 1, 2024; 3,100 people on February 1, 2024 (+12 people); 3,112 on March 1, 2024 (+12); and 3,138 on April 1, 2024 (+26).

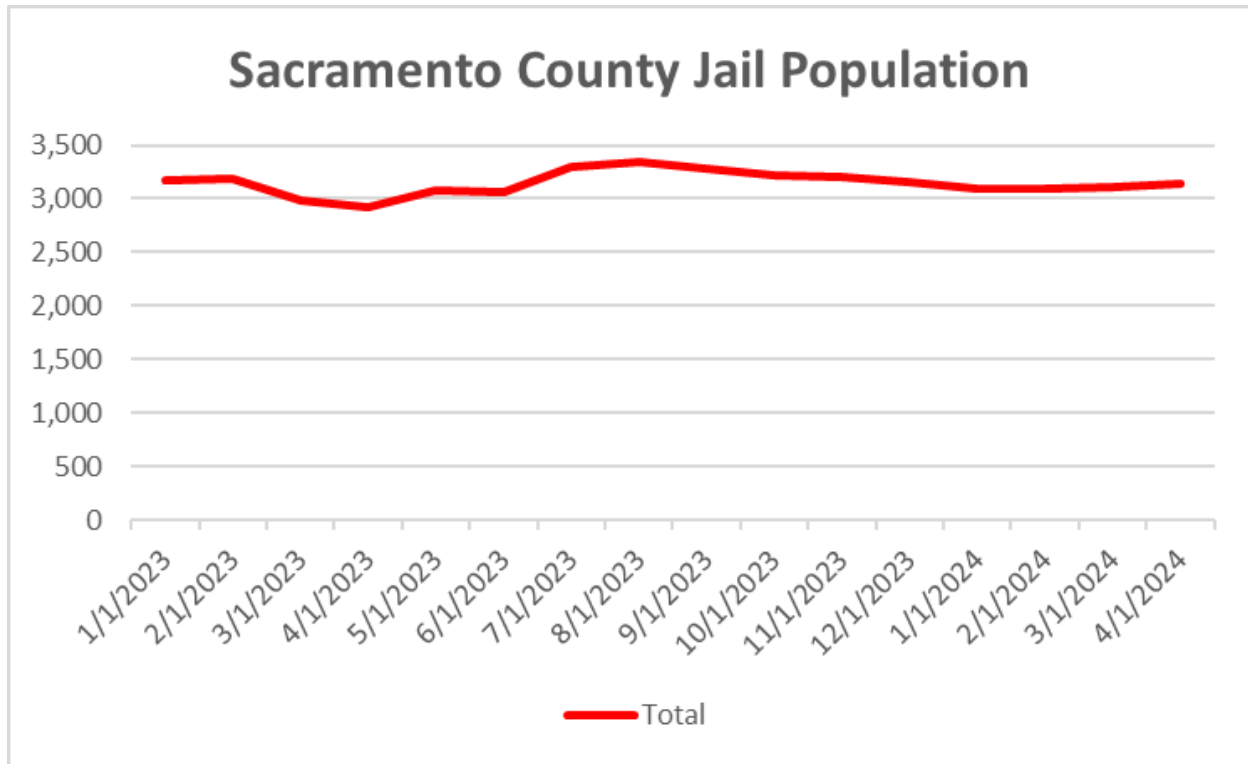
¹ See Report by Nacht & Lewis, [Main Jail Capacity to Meet the Consent Decree Report](#), March 31, 2022.

² See *id.* at p. 3 (“Acute psychiatric and intensive outpatient (IOP) cohorts are resource-intensive and put the highest demand on infrastructure, staff, and services. The analysis shows that meeting the needs of this group **reduces the jail's capacity to 1,357 beds from its rated capacity of 2,397—a loss of 1,040 beds** or nearly 44% reduction.”) (emphasis in original).

³ See Report by Kevin O'Connell, [Sacramento County Jail Study](#), May 2022.

⁴ See *id.* at pp. 6-7.

⁵ See Sacramento County Public Safety and Justice Agency, [Jail Population Reduction Plan, 2023 Quarter 2](#) (population reduction initiatives listed on pp. 4-8).



The County's proposed solutions have not addressed the serious overcrowding at the Jail. Without meaningful population reduction, the conditions in the Jail will likely remain unconstitutional. As *Mays* class counsel, we are now seeking to understand the reasons why these proposals have fallen short of their expectations. We are also investigating alternative solutions that will allow the County to fulfill its commitment to reducing the Jail population and improving conditions in the Jail.

Sacramento County's Superior Court Review (SCR) Process

As you know, the pretrial process has a significant effect on the population of the Jail. According to the May 2022 Jail population study, 75 percent of people in the Jail at the time of the study were unsentenced, and 95 percent of people in the Jail were detained pursuant to an underlying felony charge.⁶ For the Jail's population to meaningfully reduce, the total number of people who are presentence and charged with felonies will likely need to decrease as well.

We understand that the District Attorney and the Public Defender offices agreed decades ago to a rather unique process that impacts this very group. In our understanding, the SCR process requires people charged with felonies to waive their right to arraignment and their right to a preliminary hearing within ten days of that arraignment. Once a person has waived their rights to that preliminary hearing, the District Attorney's office has more time to investigate the

⁶ Report by Kevin O'Connell, *Sacramento County Jail Study*, May 2022, at p. 6.

facts of the case and offer a plea deal. We understand that this process was originally created with the intention of preserving judicial resources, encouraging collaboration between the two sides, and streamlining the criminal legal process to expedite the resolution of felony cases.

Decades later, however, we are concerned as to whether this SCR process is continuing to serve these goals and the system more broadly. Our impression is that other California counties do not have a similar SCR process in place.

To help us better understand the SCR process and how it might contribute to the population crisis in the Jail, we have the following questions:

- 1. Can you please describe the history of the SCR, including when it began and what the original purpose was? How has the SCR process changed over time? Is the process currently meeting its original goals?**
- 2. Based on your office's experience, does the SCR process impact charging decisions? If so, how?**
- 3. Based on your office's experience, does the SCR process affect the way public defenders counsel their clients? If so, how?**
- 4. Can you please explain, in your understanding, the extent to which the SCR process impacts the population of the jail?**

Finally, if the SCR process has been memorialized or described in writing, please provide any documentation.

Please respond to this inquiry by June 14, 2024. We look forward to hearing back from you, and we are happy to schedule a meeting to discuss this issue.

Sincerely,

Margot Mendelson
Patrick Booth
Jerrold Thompson
PRISON LAW OFFICE

Aaron J. Fischer
LAW OFFICE OF AARON J. FISCHER

cc: Eric Jones, Deputy County Executive for Public Safety and Justice
Sarah Britton, Deputy Counsel Counsel