



PUBLIC HEALTH ADVISORY BOARD

Sacramento County Public Health Advisory Board's Recommendations of Investments Needed to Promote Sustainable Reductions in Sacramento County Jail Population

March 11th, 2022

The Honorable Don Nottoli, Chair
Sacramento County Board of Supervisors 700 H Street, Suite 1450
Sacramento, CA 95814

Through our mandate to advise the Board of Supervisors on “local public health, primary care needs and related priorities” for County residents,¹ the Public Health Advisory Board (PHAB) has invested many months interviewing stakeholders, reviewing key documents, and examining the relationship between mental health and the jail system.

PHAB sends this letter of recommendations to the County in support of further steps towards improving public health outcomes by investing in the programs and services that provide the best results for justice-involved populations, particularly those with behavioral health needs. These recommendations are in line with the broad recommendations by the American Public Health Association (APHA) to (1) urgently reduce incarcerated populations and (2) reduce carceral system funding and invest in social determinants of health, including housing and health.

Successful implementation of these recommendations and similar initiatives that move people out of jail and into housing and mental health services will also help the Board of Supervisors fulfill its commitment under the Mays Consent Decree to reduce its jail population and mitigate issues of overcrowding and COVID outbreaks that continue to be publicized. In order to address these challenges, PHAB recommends the following three actions:

1. Expand Capacity for Pre-Trial Diversion to Improve Public Health Outcomes, Reduce the Jail Population, and Reduce Recidivism
2. Restore and Expand Capacity for Mental Health Treatment in the General Community through Investments in SCMHTC and EMPOWER
3. Expand Supportive Housing to Improve Service Connections, Reduce Recidivism, Reduce Costs Associated with Incarceration, and Promote Public Safety

¹<https://dhs.saccounty.gov/PUB/Pages/Public-Health-Advisory-Board/BC-Public-Health-Advisory-Board.aspx>

Each recommendation is described below. The overall recommendation of this body is to further invest in infrastructure that normalizes the prioritization of public health needs as the primary method to reduce criminalization. PHAB is confident that through these three recommendations, Sacramento County can better comply with the Mays Consent Decree, reduce costly recidivism, and promote public health for all.

RECOMMENDATIONS:

1. Expand Capacity for Pre-Trial Diversion to Improve Public Health Outcomes, Reduce the Jail Population, and Reduce Recidivism

Sacramento County faces an urgent need to improve public health outcomes, reduce the jail population and reduce recidivism. This need is imperative based on (1) the findings in the Mays Consent Decree, and (2) new impacts of the Supreme Court Case, *In re Humphrey*.

The Mays Consent Decree underscored issues surrounding conditions in our jails and encourages the reduction of our jail population. Specifically, the “Mays consent decree commits the County to consider measures to reduce the jail population and to prevent the unnecessary or avoidable incarceration of individuals with serious mental illness. Under the settlement agreement, the County has agreed that a reduction in the jail population is a cost-effective means to achieve constitutional and statutory standards.”²

The most recent Mays Consent Decree monitoring report noted that there is a significant and “growing” number of individuals in the jails awaiting placement in appropriate levels of care. To address this, the report recommended that the County contract community-based residential, inpatient services in order to reach compliance—further underscoring the need to fund and expand appropriate care options outside of a jail setting.

These goals are also aligned with the new Supreme Court decision, *In re Humphrey*.³ The Supreme Court recently held that an individual may not be detained in custody pre-trial solely because they cannot afford to post bail. The Court is now charged with determining whether there are non-monetary alternatives to ensure that an individual will appear in court if released and keep the public safe. Further, if an individual is detained, the court must find by clear and convincing evidence⁴ that the detention is necessary to protect public safety.⁵ Hence, under the new Supreme Court case, our Sacramento Superior Court must evaluate alternatives to incarceration for the pre-trial population.

According to the most recent Sheriff Department data, 82% of people incarcerated in Sacramento County jails have not been convicted of any crime.⁶ 66% of this pre-trial population in Sacramento jails have a mental diagnosis.⁷ Given the requirements of the Mays Consent Decree and *In re Humphrey*, PHAB recommends that this Board focus on supporting our pretrial

²<https://www.disabilityrightsca.org/press-release/settlement-approved-in-sacramento-county-jail-class-action-to-ensure-better-treatment>

³<https://www.courts.ca.gov/opinions/archive/S247278.PDF>

⁴<https://www.justia.com/trials-litigation/docs/caci/200/201/>

⁵ See *US. v. Salerno* <https://supreme.justia.com/cases/federal/us/481/739/>

⁶https://www.dropbox.com/sh/pre9pq4sgjj3l6x/AAACXGc9Uxukjec8St8WBtkpa?dl=0&preview=MH+Data_Jan+2022.pdf

⁷https://www.dropbox.com/sh/pre9pq4sgjj3l6x/AAACXGc9Uxukjec8St8WBtkpa?dl=0&preview=MH+Data_Jan+2022.pdf

programs that reduce jail capacity and address the underlying causes of incarceration by holistically assessing needs and connecting people to comprehensive services.

1a. The Public Defender’s Pretrial program⁸ has received national recognition⁹ for its comprehensive approach and demonstrated outcomes. Advantages of the Public Defender’s program include:

- The Program is interview-based and uses four evidence-based tools to assess trauma, mental health, substance use, and housing for individuals in custody.
- Once needs are identified, the Pretrial Support Project has clinical social workers who coordinate jail discharges, provide links to services, coordinate with all departments and community, conduct further clinical assessments, and provide service coordination and case management upon release. This allows for safe releases of individuals who are incarcerated pretrial.
- The program has a documented 2% recidivism rate in its first year of operation, compared to a 46.1% re-arrest rate in Probation’s pretrial program.¹⁰
- The program performs data-driven, comprehensive needs assessments on clients which determine the full range of needs of the client, including housing, employment and health. This is compared to law-enforcement’s approach of conducting risk assessments, which focus on a defendant’s risk of failure to appear at their court hearing. The Carey Group Report from May 2020 recommends use of trauma-informed needs assessments over risk assessments.
- This program also operates under attorney-client privileges, which means that individuals can seek support for these challenges without risk of further criminalization and punishment, honoring their pre-trial status, and improving the likelihood of positive outcomes for those individuals which reduces jail recidivism.
- Using the public defender’s linkage to support approach, the county has achieved the following outcomes between January 2021-December 2021:
 - 462 individuals in custody linked to mental health services
 - 243 individuals in custody linked to substance abuse and prevention services
 - 253 gained housing

2. Restore and Expand Capacity for Mental Health Treatment in the General Community through Investments in SCMHTC and EMPOWER

Under the Mays Consent Decree, the court-appointed mental health subject matter expert also recommended that the County contract out inpatient treatment for individuals in the jail with serious mental illness due to the inadequate space and poor quality of care for those individuals in the jail. In addition, a recent analysis by RAND Corporation found that the Sacramento area had a gap of several hundred bed spaces to meet the area’s mental health need; although this analysis was for a greater Sacramento area, it highlights a critical shortage that has been reported to contribute to an overreliance on the jail to book individuals in mental health crisis who otherwise lack access to care. Based on these findings, PHAB recommends a) restoring the Sacramento County Mental Health Treatment Center, b) expanding the outpatient Mental Health Diversion Program EMPOWER, and c) increasing the price per bed Sacramento County pays at mental health hospitals.

⁸https://www.counties.org/sites/main/files/file-attachments/sacramento_public_defender_pretrial_support_project.pdf

⁹<https://www.saccounty.gov/news/latest-news/Pages/NewPublicDefenderProgramWinsMeritAward.aspx>

¹⁰<https://saccoprobation.saccounty.gov/Documents/Resources/Data/Pre-trial%20Monitoring/Pretrial%20Risk%20Assessment%20Tool%20Validation.pdf?csf=1&e=XKSHiD>

2a. Sacramento County Mental Health Treatment Center (SCMHTC)

When a person with acute mental health needs is arrested, the arresting agent determines where to take the impacted person. The options are SCMHTC, emergency rooms, and the jail. Agents are likely to be unsuccessful with a SCMHTC placement due to insufficient capacity. Emergency rooms require the agent to remain present until the patient is treated, thus imposing costs to law enforcement in paid time and time away from patrol. This leaves one viable option from the perspective of the arresting agent: a jail.

SCMHTC, the county's inpatient psychiatric hospital, is an underutilized resource that could add tremendous value as a restorative alternative to jail, helping the county address diversion and depopulation challenges by returning to its original structure and intention. Following budget reductions in 2008, the county reduced SCMHTC's structure to two parts. The initial service was a 100 bed inpatient psychiatric facility that included a 24/7 stabilization unit. The structural change in 2008 reduced the inpatient part to 50 beds and closed the 24/7 stabilization unit. The new part became an urgent care facility (known as Urgent Care) that limits intake services to weekdays between 8 a.m. and 5 p.m.

Providers and experts report that the 50% capacity reduction at SCMHTC has increased the number of individuals with serious mental illness in Sacramento County jails and made it more difficult to find alternative placements. Given the new laws related to LPS Conservatorships and the Department of State Hospitals, the need for services for individuals with serious mental illness will continue to increase. SCMHTC provides discharge planning from inpatient care and directly coordinates with outpatient providers. The County could serve 100 patients in the existing mental health facility while complying with HIPAA, ADA, and other relevant standards; the capacity is limited only by the program budget.

Re-investing in SCMHTC to restore its pre-2008 capacity would be a relatively cost-effective and sustainable way to reduce the jail population by 50 individuals with significant mental health needs, thereby alleviating several of the facility-related consent decree issues and having the immediate potential to decrease the jail population by 50, offering an alternative inpatient treatment center that already acts as an alternative to incarceration for individuals with mental health treatment needs.

2b. EMPOWER: A Department of State Hospitals Mental Health Diversion Grant

EMPOWER is the County's first dedicated forensic behavioral health outpatient program prioritizing services for those involved in the criminal legal system. A critical success factor for this program is the participation of multi-disciplinary professionals with specific training in understanding factors that can lead to criminal behavior and the needs of impacted clients.

This program, currently implemented by the county's Office of the Public Defender (SCPD), serves the populations most overrepresented in the jails: persons with serious mental illness, those who are likely to be found incompetent to stand trial or who are found incompetent to stand trial, those charged with felonies, and those granted court ordered diversion. Three key components define the success of this program.

- Offers a "Full Service Partnership" Plus Program that offers a 'whatever it takes' approach to behavioral health (including; but not limited to, 80% of all services delivered to participants in the field to avoid any barriers to receiving treatment, transportation, medication, therapy, psychiatrist, case managers, peer support) and housing for each participant.

- Each case is evaluated by a professional forensic mental health expert who uses evidence-based assessments to determine whether the participants can be safely treated in the community and makes recommendations for individual treatment plans to ensure the participants' needs will be addressed and supported.
- It is implemented by the single office in the county's criminal justice system that is most aligned with decarceration.

A comparable program, the Los Angeles Office of Diversion and Recovery, has delivered astounding success incorporating the FSP model in decreasing homelessness and psychiatric hospitalizations while increasing independent living and employment.¹¹

EMPOWER is funded by a 3-year grant ending June 2023 and totaling \$4.5 million (partially matching). It serves 50 individuals, half of whom receive housing. The program is easily scalable such that it could continue to reduce the jail population thereby lowering criminogenic risks, increasing economic productivity and housing opportunities, and restoring families.

2c. Increasing the price Sacramento County pays per psychiatric bed

Sacramento County has the most acute psychiatric hospitals in our region. Specifically, within Sacramento County, there are 10 acute psychiatric hospitals. Although we have the highest number of acute psychiatric beds available in our region, many of these beds are not being used by Sacramento County residents. Rather, according to Patient's Rights, 25% of the acute psychiatric beds in our county are used by non-Sacramento County residents. Specifically, other counties bordering Sacramento County often use the acute psychiatric beds in our region since little capacity exists in their own region. Although Sacramento County pays the cost for the due process rights associated with all the beds (regardless of whether the resident is from Sacramento County or another County) through a Patients Rights representative, Public Defender, District Attorney, County Counsel, and Superior Court, we continue to struggle obtaining beds in these hospitals because our county pays less per day per psychiatric bed. Considering 4% of Sacramento County Jail population makes up 18% of all bookings, this is a profound concern. Sacramento County is fortunate to have so many acute psychiatric facilities and is already paying for the cost of the hospitals due process mandates; however, we are failing to occupy the beds we need because we are not paying the same rate as other counties.

3. Expand Supportive Housing to Improve Service Connections, Reduce Recidivism, Reduce Costs Associated with Incarceration, and Promote Public Safety

Sacramento County has approximately 11,000 individuals unhoused annually. A recent study of individuals in custody indicated at least 52% of individuals in our main jail report housing insecurities. To address these two issues and reduce the number of people cycling between housing insecurity and incarceration, Sacramento County must a) remove barriers to accessing existing housing programs, and b) expand and refine affordable successful housing models designed for and tailored to justice-involved individuals.

3a. Remove barriers to accessing existing housing programs.

Barriers exist for individuals to take advantage of existing housing programs that Sacramento County already offers. Too often in Sacramento County, individuals who are eligible for county housing support are not able to access these programs due to their lack of identification and/or criminal record. Many individuals are released from jail without the necessary documents to access housing. To address these issues, PHAB recommends removing these barriers by:

¹¹<https://dhs.lacounty.gov/office-of-diversion-and-reentry/our-services/office-of-diversion-and-reentry/who-we-are/>

- In Sacramento County, individuals need their social security cards, IDs, and negative TB tests in order to qualify for DHA housing. Ensuring that all individuals are offered services to obtain identification and other legal documents needed for obtaining health care, employment, housing, government benefits, etc.
- Update county policies stigmatization and discrimination due to record of past convictions through local and state legislative intervention or updating County policies.

3b. Expand and refine affordable housing models designed for and tailored to justice-involved individuals.

Transitional housing with wraparound services

- The Exodus Project is an organization in Sacramento County that provides transitional housing and mentoring services to individuals recently released from jail and prison. In partnership with Sacramento Self-Help Housing, individuals can stay 3-6 months as they are supported in re-entering the community. Increasing funding for community-based organizations like Exodus Project would allow for the expansion of available bed space for the justice-involved population. The current cost of operating a 5-bed house for this program is \$150,000 per year.

Expand public and permanent supportive housing inclusive of independent living and board and care facilities:

- The American Rescue Plan Act (ARPA) presents an enormous opportunity for one-time investment in public and permanent supportive housing. Currently, the county appears to have no plans to build physical housing units with ARPA funding.¹² Given that over 50% of all individuals charged with misdemeanors who are incarcerated in Sacramento County jails are unhoused or housing insecure, and many misdemeanors are related to their unhoused status, urgent investment in building accessible housing would have significant impacts on decreasing Sacramento County jail populations.

CONCLUSION

The Public Health Advisory Board recognizes that implementing all of these recommendations has near-term cost implications—and long-term returns on investment. Therefore, PHAB would respectfully urge this Board to consider, in addition to General Fund allocations, utilizing funding streams from Public Safety Realignment (AB109), the American Rescue Plan Act (ARPA), State-related backfill dollars from recent criminal justice legislative changes, State-related pretrial service dollars, and Medi-Cal funding. These combined funding streams provide unprecedented opportunity to invest in programs and services that prevent incarceration and promote public health in the process.

In regards to AB 109 funding, Sacramento County received more than \$60 Million in AB109 funding last year. While funding recommendations outlined in the 2021 AB109 Plan align with the recommendations outlined in this letter¹³, it remains unclear if and how AB109 funds will be spent. We encourage our Board to investigate how other counties across California have dedicated significant portions of their annual AB109 budgets to preventative health services, and for Sacramento County to do the same.

¹² <https://www.saccounty.gov/news/Documents/Initial%20ARPA%20Project%20Summaries.pdf>

¹³ https://saccoprobatation.saccounty.gov/Documents/Resources/CCP/Implementation%20Plans/ATT_1_-_AB_109_Plan_-_2021_Update.pdf

In terms of ARPA funding, the COVID-19 pandemic has led to an increase in mental health burden and a loss of housing in our community—conditions that are often associated with or can lead to incarceration. ARPA funding provides an opportunity to mitigate these impacts of the pandemic and prevent members of our community from becoming trapped in cycles of poor health, housing insecurity, and incarceration by investing in programs that are proven to work. Additionally, Medi-Cal funding under Cal AIMS can now be used to support justice involved individuals.

In conclusion, these recommendations are the result of considerable consultation and research. Their intent is to prevent incarceration and reduce the jail population, taking a public health approach that prioritizes addressing root causes and treatment over incarceration. We appreciate the Board's deep consideration of the aforementioned recommendations and welcome the opportunity to further investigate, collaborate and provide actionable steps to improve local health and safety.

Respectfully,

A handwritten signature in cursive script that reads "F.L. Kaufman".

Farla L. Kaufman, PhD MSc MSc
Chair, Public Health Advisory Board
Sacramento County