



Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Susan Dueñas, Public Safety Director

Approved by: Steve McClary, City Manager

Date prepared: April 18, 2023

Meeting date: May 8, 2023

Subject: Letter in Opposition to Los Angeles County Board of Supervisors Motion to Take Actionable Steps to Depopulate and Decarcerate the Los Angeles County Jails

RECOMMENDED ACTION: Consider authorizing the Mayor to send a letter to Los Angeles County Board of Supervisors Hilda Solis and Lindsey Horvath in opposition to a proposed motion to take actionable steps to depopulate and decarcerate the Los Angeles County jails.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2022-2023. This project is part of normal staff operations.

DISCUSSION: The City was recently made aware of a motion put forward by Los Angeles County Supervisors Hilda Solis and Lindsey Horvath to take actionable steps to depopulate and decarcerate the Los Angeles County jails (Attachment 1). The item was pulled from the April 4, 2023 Board of Supervisor's agenda after receiving numerous communications from cities and stakeholders in opposition to the motion. Although the motion was pulled, there are indications that it will be brought back at a future meeting.

The motion includes numerous recommendations that could impact the City and surrounding community by releasing inmates through expansion of early release programs, reduction and elimination of certain bail amounts, establishment of a mandatory cite-and-release rule for suspects with bail amounts less than \$50,000, and expansion of pre-trial diversion programs to cover a wider range of offenses.

The Las Virgenes-Malibu Council of Governments recently discussed sending a letter in opposition to the motion, and the cities of Calabasas and Hidden Hills, as well as the League of California Cities Los Angeles County Division already have sent letters. An analysis of the motion prepared by Calabasas Councilmember James Bozajian is attached. While there is broad recognition that the County needs to address overcrowding in the jails and meet mandates set by various consent decrees, many of the objections to the motion stem from the lack of outreach to cities and other stakeholders to participate in development of the strategy.

Public safety has long been a top priority of the City Council. Therefore, staff recommends that the Council consider directing the Mayor to write a letter to Supervisors Solis and Horvath opposing the motion and encouraging them to work with cities and other stakeholders to develop strategies that minimize the potential impact to public safety.

ATTACHMENTS:

- 1) Los Angeles County Board of Supervisors proposed motion
- 2) Analysis of the motion
- 3) Draft letter in opposition to the motion

MOTION BY SUPERVISORS HILDA L. SOLIS AND

April 4, 2023

LINDSEY P. HORVATH

Los Angeles County to Take Actionable Next Steps to Depopulate and Decarcerate the Los Angeles County Jails: Granting Local Authority, Advocating for Court and State Support, and Legislative Changes

Over the years, the Los Angeles County (County) Board of Supervisors (Board) has done a great deal to advance its “care first, jails last” agenda. As far back as 2015, the Board has taken steps to create, expand, and support alternatives to custody initiatives, such as the continued support of the Department of Health Services’ (DHS) Office of Diversion and Reentry (ODR) through the expansion of beds; adoption of the five strategies outlined in the Alternatives to Incarceration (ATI) Work Group’s final report; and creation of the Gender Responsive Advisory Committee (GRAC), the Men’s Central Jail (MCJ) Workgroup, the Executive Steering Committee (ESC), and the Jail Population Review Council (JPRC).

In 2021, the Board also adopted the “Care First and Community Investment Budget Policy” (CFCI) and has allocated over \$200 million dollars in the first two years

MOTION

SOLIS	_____
MITCHELL	_____
HORVATH	_____
BARGER	_____
HAHN	_____

to support direct community investment through community-based youth programs, job training, access to capital for small and minority-owned businesses, rental assistance, housing, and alternatives to incarceration through community-based services and non-custodial pretrial, diversion, reentry, and restorative justice programs.

To further commit the Board's intention to "jails last", in 2021, it created the Jail Closure Implementation Team (JCIT), with a firm mandate to safely close and demolish MCJ with no new jail construction. Additionally, to streamline the many "care first" initiatives conceptualized and created out of the County's 38 departments, the Board created the one-of-a-kind, Justice, Care and Opportunities Department (JCOD). This Department houses all non-clinical "care first" and ATI initiatives and strategies, including pre-trial and reentry, utilizing all County tools and resources available to safely depopulate and decarcerate the non-clinical populations of the County's seven jail facilities, prioritizing MCJ.

To depopulate and decarcerate is a monumental task, and the Board is committed to redress historical wrongs, deeply rooted in systemic racism and prejudice, and reverse status quo responses to poverty, mental health and medical needs, and substance use dependencies. However, the authority and responsibility, unfortunately, does not rest solely on this Board.

The Board has limited authority to decarcerate and divert as these authorities lie largely with the State, Legislature, Governor, Los Angeles Superior Court (LASC), and the Los Angeles County Sheriff. There are also several legislative changes and reforms that need to take place to safely depopulate vulnerable populations in the jails, such as those who have been deemed "medically fragile."

Lastly, the County jails, as overcrowded as they are and have historically been for over 40 years, currently house 1,464 individuals who have been sentenced to State prison. The burden of acting as a holding space for another jurisdiction, in this case, the State, poses great liability and risk to the County.

The County is under numerous consent decrees and settlement agreements, including lawsuits about conditions in the jails, the treatment provided for incarcerated people with mental health needs, and severe overcrowding in the County jails. They are expensive and getting into compliance is becoming more difficult and challenging as the population becomes more complex. To better handle the numerous consent decrees, the Board, earlier this month, supported the motion, “Consent Decrees: Achieving Compliance” to receive a report back from County departments, including LASD, that will include “exit strategies to enable the County to achieve compliance and resolve the lawsuit...”¹

In further analysis of the population in the County’s jails, there are pathways for release and diversion for certain individuals and those relevant programs should be expanded; however, there are also those individuals who will likely not be able to be released/diverted due to the severity of their mental health needs and charges. These individuals, who have no other option available to them but incarceration, are being addressed in previous motions, supported by the Board, to build out the County’s continuum of care in the community through the development of secure mental health facilities. This option would allow those with severe mental health needs to be served in facilities focused on treatment, not incarceration or punishment.

¹ <https://file.lacounty.gov/SDSInter/bos/supdocs/178221.pdf>

The Board is also seeking support from the State, in light of the mental health crisis in our communities, which is heavily impacting people experiencing homelessness and those who have severe mental health needs, through the motion, “Advocating for Mental Health Services Act Flexibility”². These vulnerable individuals, without the intervention of resources, services, and support cycle in and out of County jails and hospitals. As a result of this motion, passing unanimously, earlier this month, the County will send a five-signature letter to Governor Gavin Newsom to seek flexibility on MHSA dollars to build out the necessary continuum of care and services that our vulnerable residents need.

Despite this, there are still steps that the Board needs to take, including:

- Advocating for support from the LASC and State for legislative changes conducive to the County’s jail depopulation goals;
- Granting limited authority to the Sheriff, which it needs to do to drastically reduce the incarcerated population, through alternative programs; and
- Removing systemic barriers and challenges and installing more reasonable and realistic guardrails as it relates to County staffing and contracting.

For these reasons and to respond to the County’s mass incarceration crisis in a more humane way, the Board must move forward with celerity to utilize its complete authority to advocate for support and reforms from our State and Judicial partners to ensure this County is a truly “jails last” County.

WE, THEREFORE, MOVE that the Board of Supervisors declare the state of

² <https://file.lacounty.gov/SDSInter/bos/supdocs/04790b8a-5e02-4306-a9ab-6eba3a71c6ad.pdf>

mental health services and overcrowding in the Los Angeles County jails a humanitarian crisis, requiring the County to move with all deliberate speed on meaningful solutions.

WE, FURTHER MOVE that the Board of Supervisors, prioritize decreasing the number of individuals entering the LA County jails by doing the following:

1. Direct the Countywide Criminal Justice Coordinating Committee, in collaboration with JCOD and LA Sheriff's Department (LASD), to engage with the 45 municipal law enforcement partners, identify interested partners, and work with those partners to develop MOUs, or other agreements, aimed at expanding the use of cite and release across the County.
2. Direct the Interim Director of JCOD and the Interim Director of the ODR to coordinate and align their respective pre-filing diversion efforts (i.e., LEAD and JCOD Pre-Filing Diversion Pilot Programs) to plan for expansion of those efforts in a manner that maximizes resources and avoids duplication of efforts.
3. Direct the Public Defender (PD) and the Alternate Public Defender (APD) to develop recommendations, including staffing and budget needs, that will enable each office to help people resolve Failure to Appear (FTA) warrants as a means of avoiding incarceration, including consideration of expanding existing expungement clinics and/or mobile services.

WE, FURTHER MOVE that the Board of Supervisors, prioritize increased opportunities for pre-trial release by doing the following:

4. Direct County Counsel, in collaboration with JCOD, to send a 5-signature letter to LASC:
 - a. Implement the Emergency Bail Schedule (EBS) that was in place at the height of the COVID pandemic, and
 - b. Implement, where feasible, extended court hours to serve those residents who are not able to attend or appear at court during normal business hours.
5. Direct JCOD, in collaboration with the PD, APD, DA, and in consultation with the LASC, to explore opportunities to provide additional programs and services to expand diversion and alternative sentencing opportunities throughout the pretrial process including, but not limited to, in the Early Disposition Courts (EDC).
6. As it relates to Penal Code §1203.018:
 - a. Direct JCOD and LASD, in consultation with County Counsel, to develop the rules and regulations of the early release, pre-sentenced programs as allowed by Penal Code §1203.018;
 - b. Authorize the use of Penal Code §1203.018 by LASD to release individuals in the County jails held on bail for either felonies and/or misdemeanors who can be safely released back into the community, based on said rules and regulations of the program; and

- c. Direct JCOD to file with the Board the agreed upon rules and regulations for the pre-sentenced program.
7. Direct JCOD to explore opportunities to subsidize transportation to and from court and other supports for individuals released pre-trial, assess the likely impact on jail population, and to develop a plan to do so. The plan should, in collaboration with CEO, identify costs and possible one-time and ongoing funding sources.
8. Direct JCOD, DA, APD, PD, Sheriff, and Probation to work with the LASC to increase the use of split sentencing as another alternative to incarceration.
9. Direct the Interim Director of JCOD, in collaboration with the LASD and all other relevant departments, to develop a plan and coordinate the implementation of community services programs at each LASD station in the County that would help to support the expansion of pre-trial releases by the LASC, and any other diversion effort by JCOD and ODR.
10. Direct JCOD with LASD, in collaboration with the PD and APD, to report back on previous efforts to conduct video arraignments at all LASD station jails and provide a proposal for a pilot to reinitiate efforts to arraign as many individuals as possible, remotely via video conference, in an effort to reduce the number of individuals transferred from local to County jails.

WE, FURTHER MOVE that the Board of Supervisors, prioritize increased opportunities for post-sentence release and re-entry by doing the following:

11. As it relates to early release programs under Penal Code §§1203.016 and 1203.017:

- a. Direct JCOD and LASD, in consultation with County Counsel, to evaluate the current rules and regulations for LASD's early release, post-sentenced programs under Penal Code §§1203.016 and 1203.017 and make any needed adjustments;
- b. Re-authorize the use of Penal Code §§1203.016 and 1203.017 by LASD to release individuals committed and/or sentenced to the County jails for misdemeanors and/or felonies who can be safely released back into the community based on the rules and regulations of the program previously developed by LASD; and
- c. Direct JCOD to file with the Board the agreed upon rules and regulations for the post-sentenced program and detail the County's collaborative effort to ensure the program's success.

12. Request LASD to review its "shorts" release policy, starting with individuals incarcerated at CRDF, for opportunities to:

- a. Further modify time-served requirements;
- b. Review its bail thresholds to cite and release individuals with aggregate bail amounts set at \$50,000 or below; and
- c. Expand "shorts" release policy and "percentage release" program to include people sentenced under Assembly Bill (AB) 109/Penal Code §1170(h).

13. Direct the Interim Chief Probation Officer to implement a high-level approval process for custody-based on Post-Release Community Supervision (PRCS) revocation and direct JCOD to work with the Interim Chief Probation Officer to find alternative measures to respond to PRCS violations that do not result in individuals being incarcerated.
14. Direct CEO-LAIR, in consultation with JCOD and County Counsel, to send a 5-signature letter to Governor Gavin Newsom and California Department of Corrections and Rehabilitation (CDCR) Secretary Jeff Macomber to:
 - a. Expedite release of individuals being held in local custody on behalf of the State including, granting LASD delegated authority to calculate credits and release individuals directly from local custody;
 - b. Expedite the transfer of those individuals, being held in local custody, who have been sentenced to state prison to CDCR facilities; and
 - c. Establish State funded and managed alternative custody arrangements for individuals who are in custody based on the State's decision to revoke their parole and/or pending processing after receiving a State prison commitment from the court.
15. Direct Probation, in collaboration with JCOD and the CEO, to identify costs and possible one-time and ongoing funding sources to support and expand JCOD's re-entry and programming services.

WE, FURTHER MOVE that the Board of Supervisors, reaffirm its commitment to depopulate and decarcerate through legislative advocacy by doing the

following:

16. Direct CEO-LAIR to advocate in support of legislative proposals to:

- a. End non-safety related towing of vehicles;
- b. Enhance implementation of the County's pre-trial services,

including proposals to:

- i. Adopt a zero-bail schedule for individuals accused of low-level offenses, infractions, misdemeanors, and some felony offenses, similar to the schedule that was put in place at the height of the COVID pandemic permanent;
 - ii. Protect information provided by defendants in pre-trial services evaluations, and expand the definition of criminal justice agencies to include pre-trial release, and require the Attorney General of California to provide state summary criminal history information to County staff performing pre-trial release services, similar to Assembly Bill (AB) 2354 (2021);
 - iii. Direct permanent funding to Los Angeles County for pretrial services, similar to San Francisco and Santa Clara County; and
 - iv. Direct any one-time funding allocated to the County through Senate Bill (SB) 129 for pre-trial services to remain available for future pre-trial services;
- c. Amend the appropriate Government Code and other relevant statutes that would provide the Sheriff and DHS' Correctional Health Services (CHS) greater ability to implement medical releases from custody (Gov. Code,

§26605.5) and compassionate releases from custody (Gov. Code, §26605.6);

- d. Mandate both the LASC and LASD to share data with a County Department that is charged with depopulation of the jail and/or administration of pre-trial services and alternatives to incarceration; and
- e. Provide funding to support reentry (pre- or post-sentenced) programming and services.

WE, FURTHER MOVE, that the Board of Supervisors, in continued efforts to safely depopulate and decarcerate, do the following:

- 17. Direct CEO-CIO, in collaboration with JCOD, the LASC, Sheriff, PD, APD, DA, DMH, DHS, DPH, Probation, ISAB, and any other pertinent County Department to create a data collection, evaluation, and research team focused on data tracking and modeling of all pre-sentence and sentenced populations, including:
 - a. The daily real time numbers for all P-levels;
 - b. Their current status in the judicial process;
 - c. The predicted date of release;
 - d. Tracking of all individuals waiting to be transferred to state prison, state hospitals, and any other jurisdiction;
 - e. The predicted impact on the numbers for all County re-entry interventions and services;

- f. The predicted impact on the numbers for all County pretrial, diversion, split sentencing, and alternative sentencing interventions and services (separating the numbers based on impact to jails vs. prison);
 - g. All available beds within the County network; and
 - h. Real time data as to whether each of those beds are occupied or not on a daily basis, including tracking walk aways from treatment and those who abscond.
18. Direct CEO-CIO, in consultation with JCOD, to engage a consultant and/or academic research institution to develop tools for jail population modeling and projections which will remain in the County's ownership and control for ongoing, future modeling.
19. Direct CEO-CIO, in collaboration with CEO, to identify costs and possible one-time and ongoing funding sources, to support data tracking and modeling efforts, including funding for JCOD, or County Departments to hire necessary staff.
20. Request that LASD identify pilot alternative assessment tools, other than COMPAS, for purposes of assessing eligibility for discretionary release programs.
21. Request that LASD work with JCOD to expand access to individuals in custody for community-based service providers and individuals with lived experience to provide jail in-reach and other services.
22. Request LASD to identify alternative security classification assessment tools, other than COMPAS, for purposes of identifying individuals who pose a security threat to themselves or others.

23. Direct JCOD to create a catalog of all County programs that impact recidivism rates of justice-impacted and involved individuals and evaluate effectiveness on decarceration and recidivism, including providing recommendations on creating new or expanding existing programs.
24. Direct County Counsel, with JCOD, to assess and provide recommendations to resolve any negative impact of the closures of State prisons on the LA County jail population that would pose challenges, including legal, to the Board's "care first, jails last" efforts.
25. Direct CEO-CIO, to work with JCOD, County Counsel, and other relevant County Departments and the LASC to establish data sharing agreements so JCOD/JCIT can access data to assist in jail depopulation and administration of alternatives to incarceration.
26. Direct JCOD and LASD to jointly file a report annually in June updating the Board on the use of Penal Code §§1203.016, 1203.017, and 1203.018 early releases, program effectiveness, with data driven analysis, and any recommendations for modifying the program as required by Penal Code §1203.018, subdivision (e).
27. Direct CEO to work with JCOD, in collaboration with County Counsel, to establish a master services agreement contracting model, similar to the one used by the Department of Health Services, to expedite contracting efforts, including to secure housing, supportive services, and case management and further direct CEO to ensure JCOD has the staffing and administrative support to carry out the relevant directives to further the County's efforts to

safely depopulate and decarcerate the jails and in furtherance of JCOD's mission.

Finally, **WE, FURTHER MOVE**, that the Board of Supervisors:

28. Direct JCOD and County Counsel to coordinate the reports back for this motion in the following manner:

- a. Each department named as lead within the motion directives shall provide JCOD and County Counsel with its report back that includes a timeline of when it will complete the directive(s) it is responsible for, subject to review by JCOD:
 - i. Within 60 days of this motion, each department named as a lead for a directive(s) shall provide to JCOD its report back, in writing, and if it cannot complete the directive(s) within 60 days, the department must inform JCOD, in writing, at least one week prior to the directive(s) deadline as to why it was not able to complete the directive(s) on time and provide a new deadline. JCOD will include this in its subsequent report backs to the Board;
 - ii. Within 90 days of this motion, JCOD shall collate only the reports received by the 60-day timeline into one document and submit it to the Board;
 - iii. After the initial report back, the lead departments for any outstanding directive(s) must work with JCOD and provide JCOD updates every 60 days regarding the directive(s); and

iv. JCOD will provide quarterly reports to the Board based on the updates provided by the departments. These reports will supersede any previous report back responsibilities by JCIT to the Board.

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Analysis of the 4-4-23 “Decarceration” Motion by the Los Angeles County Board of Supervisors
By James R. Bozajian, Calabasas City Councilmember
April 12, 2023

With respect to the recent “decarceration” motion appearing on the April 4, 2023, agenda of the Los Angeles County Board of Supervisors before being temporarily withdrawn:

The Board of Supervisors failed to solicit meaningful public input prior to introducing its initial decarceration proposal. This continues an unfortunate pattern of conduct by the Board in recent years. By excluding a diverse array of stakeholders from contributing their thoughts to this measure before it was agendized for a formal vote, the Board conveys the unmistakable impression that it does not want to hear from those stakeholders and has already pre-determined specific outcomes. This runs counter to an open and democratic process for making key policy decisions. Before any future proposal is brought forward, the Board must solicit input from a broad range of sources, reflecting a broad range of viewpoints. This should include local elected and appointed officials within Los Angeles County.

In addition to the procedural flaws noted above, the Board’s decarceration proposal contains a number of troubling and ill-conceived substantive elements. These include, but are not limited to, the following.

1. Implementation of the “Emergency Bail Schedule” that was in effect only at the height of the COVID-19 pandemic. This short deviation imposed in 2020 represented a drastic departure from the regular bail schedule, and was only adopted as an emergency measure to avoid the spread of a deadly virus. Absent such a true emergency, this change would simply release large numbers of potentially dangerous criminals back into the general population prior to facing any consequences for the actions which resulted in their arrests.
2. “Legislative advocacy,” which is vaguely defined as support for relaxing criminal penalties by the State Legislature. The Board’s statements along these lines provide few specifics as to what statutory changes would be sought, and do not consider any long-term, negative effects of permanently reducing or eliminating penalties for criminal conduct.
3. Early release of convicted inmates before completion of their statutorily imposed sentences.
4. Expansion of pre-trial release programs for inmates, using electronic supervision.
5. Expansion of pre-trial diversion programs to cover a wider range of criminal offenses never before contemplated.
6. Establishment of a mandatory cite-and-release rule for suspects with bail amounts less than \$50,000. This blanket pronouncement ignores the long-standing and well established practice of

thoughtfully weighing the facts of individual cases in order to properly assess the risks inherent in releasing suspects back into the community prior to final resolution.

7. Zero bail for most warrants and probation violations. These changes would effectively eliminate any incentives for suspects to appear for scheduled court hearings, or for convicted individuals to work toward becoming productive citizens upon release from custody.

Again, this list is not exhaustive and is only outlined here to provide specific examples of some of the many potentially negative repercussions stemming from the Board's decarceration motion. Before any reforms along these lines are enacted, the Board must study the impacts to our communities associated with pre-trial recidivism and substantial sentence reductions. Any academic statistical analyses must be derived from neutral sources, using raw data that can be verified and not subject to reasonable debate. In summary, the Board should carefully consider all consequences of enacting uniform mandates that do not assess the gravity of individual offenses committed against those who live, work, or visit Los Angeles County.



City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

April 27, 2023

Honorable Lindsey P. Horvath, Supervisor
Los Angeles County Board of Supervisors
821 Kenneth Hahn Hall of Administration
500 W. Temple St.
Los Angeles, CA 90012

Re: Opposition to Motion to Depopulate and Decarcerate Los Angeles County Jails

Dear Supervisor Horvath,

On behalf of the City Council of the City of Malibu, we appreciate your willingness to support pulling your joint motion to “Depopulate and Decarcerate Los Angeles County Jails.”

The City of Malibu recognizes the need to address jail overcrowding, especially at Men’s Central Jail and we are sensitive to the County’s responsibility to meet mandates set under various federal consent decrees. The costs and impacts related to these decrees impact all communities in Los Angeles.

However, given the countywide impacts to any changes in our jail system, we believe that all plans to reduce populations in our jails should engage a diversity of stakeholders, including city officials. City partnerships are critical to implementing any meaningful changes in our jail system because many of the solutions proposed to alleviate the stress on county jails involve program and facility placement in our communities.

Like most communities, public safety is a top priority for the City of Malibu. We hope that you will work with us as you discuss how to move forward with your proposal. We appreciate your consideration of this important issue.

Sincerely,

Mayor Bruce Silverstein
City of Malibu
bsilverstein@malibucity.org
310-456-2489

