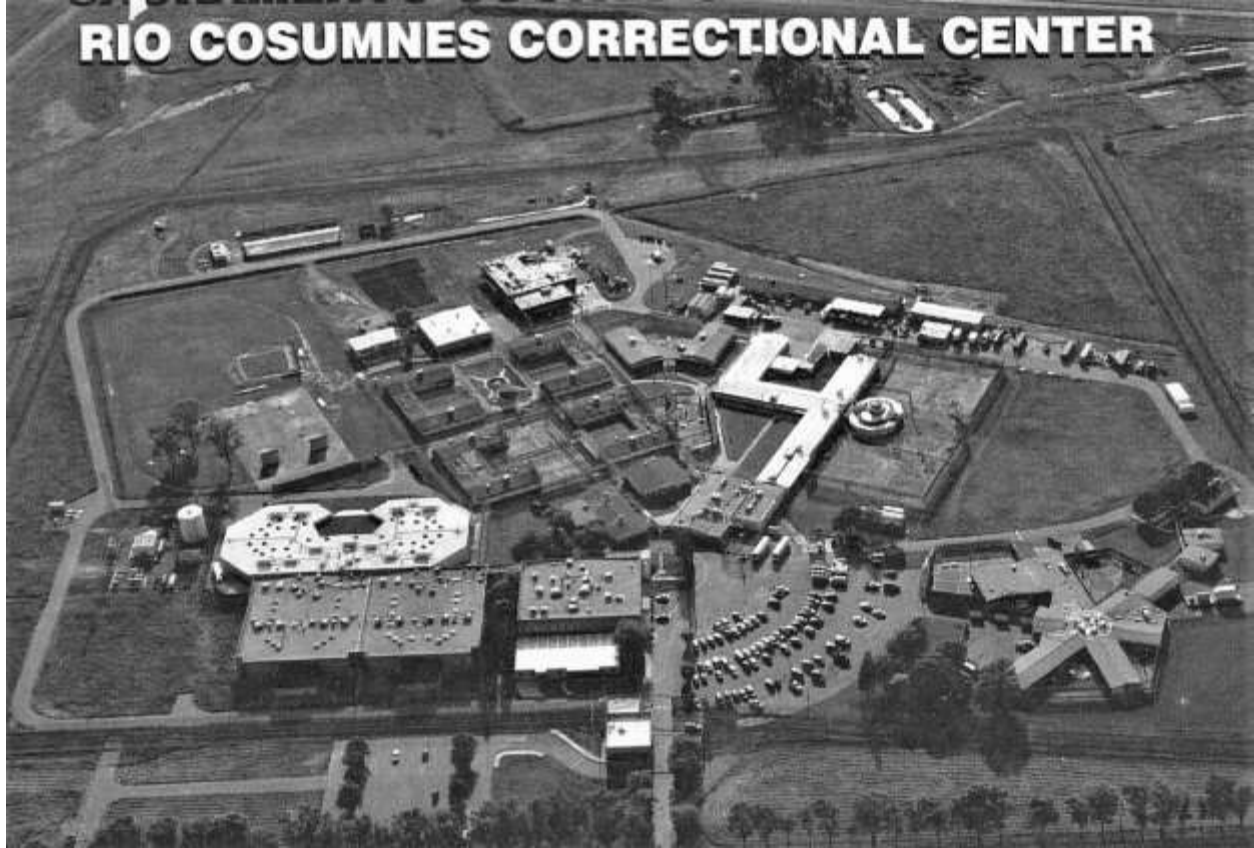


California Senate Bill 1022: A Gift Too Good to Ignore



CALIFORNIA SENATE BILL 1022: A GIFT TOO GOOD TO IGNORE

SUMMARY

The 2019-2020 Sacramento County Grand Jury (SCGJ) initiated an investigation into the County of Sacramento's hesitancy to accept \$80 million in state funds authorized by Senate Bill 1022, the Adult Local Criminal Justice Facilities Construction Program (SB 1022). The intent of SB 1022 is to promote the implementation of Assembly Bill 109, the California Public Safety Realignment Act (AB 109), a law that requires minor felony level defendants be incarcerated locally rather than in overcrowded state prisons. The Board of State and Community Corrections (BSCC) oversees and assists the counties in making the modifications necessary to house, educate and provide medical and mental health services to long term inmates.

In 2013-2014 Sacramento County received authorization for \$80 million to make the necessary to existing local facilities. If the County agrees to accept the funds it must agree to pay the staffing costs and operate the facility until the lease revenue bonds which raise the necessary monies are fully paid. The Sacramento County Office of Budget and Debt Management estimated the approximate yearly increased staffing and operating costs would be between \$6-\$8 million per year for the next 30 years, the term of the lease revenue bonds.

In 2014, the Sacramento County Sheriff's Department began developing a plan for the use of the \$80 million to expand the programs and services needed for long-term inmates housed at Rio Cosumnes Correctional Center (RCCC) and the Sacramento County Main Jail (SCMJ). That plan included construction of a medical and mental health services center capable of housing up to 26 inmates, and the upgrade of reception and cafeteria facilities, as well as the expansion of educational and vocational training programs.

The County issued Requests for Proposals (RFPs) from contractors in 2015, 2017 and 2019. The scope of the successive RFPs was reduced each time, but the bids continued to exceed the engineers' estimates.

At the same time the RCCC expansion plans were undergoing reviews and revisions, Sacramento County was also defending a lawsuit in the United States District Court, Eastern District CA, Sacramento Division concerning the conditions in the SCMJ and RCCC. The litigation, *Mays v. County of Sacramento*¹ resulted in a Consent Decree approved by the court on January 13, 2020 between the County and the plaintiffs. The Consent Decree obligated

¹ *Lorenzo Mays et al., Plaintiffs, v. County of Sacramento, Defendant*, United States District Court, E.D. California, No. 2:18-cv-02081-TLN-KJN (PC), January 8, 2020)

Sacramento County to extensively upgrade medical and mental health facilities, as well as provide accommodations to inmates required by the Americans with Disabilities Act (ADA).

The Grand Jury found that the County will need to expend considerable funds to adequately accommodate the needs of its increased number of inmates due to realignment and compliance with the requirements of the *Mays Consent Decree*; and that acceptance of the \$80 million in state funds available through SB 1022 will substantially offset anticipated funding requirements. Failing that, County funds should be allocated for infrastructure improvements to support the expansion of medical and mental health services, as well as the education and vocational training opportunities for all inmates.

BACKGROUND

On November 8, 1994, the California voters approved Proposition 184, Three Strikes Sentencing Initiative, also known as “Three Strikes and You’re Out.” The essence of the Three Strikes law was to mandate a lengthy prison sentence for habitual offenders. The law was codified in California Penal Code section 667.

Once implemented, the California prison population exploded and new prison construction couldn’t keep up with the growth. The population reached a high of approximately 173,000 inmates by 2007 up from about 125,600 inmates in 1994 when the “Three Strikes and You’re Out” sentencing law was passed.

In 2009 the US Supreme Court mandated that the State of California reduce the prison population to no more than 115,000 inmates, or 137.5 percent of its design capacity, within two years. By the year 2011 the state prison population continued to rise and reached 143,493 inmates or 180 per cent of design capacity. On April 4, 2011, the state legislature passed AB 109, to reduce the state prison population. This bill immediately shifted the responsibility for housing certain new offenders, specifically persons convicted of non-violent, non-serious, non-sex offenses and parole violations, from State Corrections to the County Sheriff and the responsibility for parole supervision from State Parole to County Probation.

As a result, since 2011 Sacramento County has become responsible for housing and supervising over 8,000 new offenders and state parole violators that otherwise would have been incarcerated in the state prisons or placed on state parole. The state appropriated funding to assist each County with the implementation of AB 109. Sacramento County has, through 2019, received approximately \$287 million in supplemental funding to support realignment.

On June 27, 2012, SB 1022 became law. The California Legislature adopted SB 1022 to help the counties fund the construction costs associated with AB 109. Up to \$500 million was authorized in lease revenue bond financing for the acquisition, design, and construction of adult local criminal justice facilities.

The State of California has allocated up to \$80 million to Sacramento County to replace, renovate and expand the medical, mental health and rehabilitation facilities at the Sacramento County jails. On November 5, 2019, at the Sacramento County Board of Supervisors (BOS) meeting, the Director of the Department of General Services (DGS) and the Chief Fiscal Officer of Sacramento County presented a proposal recommending that the County reject the latest bids received in August 2019, and instead, reduce the scope of the RCCC's expansion and infrastructure project, and authorize the distribution of RFPs (Request for Proposals) reflecting those reductions.²

Approving the Project requires that the County commit to provide staffing and operate the facility until the lease revenue bonds are fully paid. The Sacramento County Office of Budget and Debt Management estimated the approximate yearly staffing and operating costs would be between \$6-\$8 million each year for the next 30 years or until the bond is repaid. The Agenda noted that the lowest construction bid was \$15 million higher than the County's estimated cost. The bid was reviewed by representatives of the Sacramento Sheriff's Office, the DGS, the Sacramento County Counsel and the County's architectural/engineering consultant. Their review resulted in a recommendation to reduce the Project's scope and send out new RFPs.

Decarcerate of Sacramento (DS), criminal justice reform activists who advocate for community-based rehabilitation programs in lieu of incarceration, opposed going forward with the Project. DS contends that modifications to RCCC will increase inmate capacity and therefore the County should turn down the SB 1022 funds.

The BOS ultimately failed to adopt the Proposal by a vote of 2-2. One supervisor commented that the projected \$6-\$8 million a year cost to the County for the Project's additional personnel was a concern.³

² Jeffrey A. Gasaway and Britt E. Ferguson, eds. Agenda of November 5, 2019, Contract No. 4347, "Rio Cosumnes Correctional Center Expansion and Infrastructure Improvements Project," *Reject All Bids, Reduce Project Scope, And Authorize to Re-Advertise.*)

³ Gasaway and Ferguson, page 2.

METHODOLOGY

The 2019-2020 Grand Jury conducted:

Interviews with individuals from the following agencies:

- Sacramento County Board of Supervisors
- Sacramento County Sheriff's Department
- Sacramento County Office of Budget and Debt Management
- Board of State and Community Corrections
- Rio Cosumnes Correctional Center Staff, October 17, 2019
- Decarcerate of Sacramento

Extensive research and review of the following:

- California Assembly Bill 109
- California Senate Bill 1022
- California Proposition 184
- California PC Section 667
- Sacramento County Sheriff's Office Reentry Services Unit Program Guide. n.d.
- Sacramento County Board of Supervisors Broadcasted Meeting, Agenda and Associated Documents, November 5, 2019
- California State Legislative Analyst's Office
- Media reports on issues relevant to Senate Bill 1022 and AB 109
- Sacramento County Sheriff's Office, Rio Cosumnes Correctional Center Facility Guide, n.d.
- *Lorenzo Mays, et al., Plaintiffs, v. County of Sacramento, Defendant*, United States District Court, E.D. California, No. 2:18-cv-02081-TLN-KJN (PC), January 8, 2020.

Confinement facility tours:

- Sacramento County Main Jail, August 9, 2019
- Rio Cosumnes Correctional Center, October 17, 2019

DISCUSSION

The Elk Grove RCCC was established in 1960, in a structure originally built to house military personnel during World War II. It was designed to serve as an overflow facility for the Sacramento County Main Jail (SCMJ). It had the capacity to house, provide medical and mental health treatment, educational and vocational training services to 750 inmates with a maximum sentence of one year. Since the passage of AB 109 in 2011, Sacramento County has received an

additional 8,000 inmates. RCCC now houses offenders serving sentences averaging 5 years or more. At the time of this report the inmate population at RCCC was approximately 1,725 inmates, with a maximum capacity to house 2,262 inmates. The population at the SCMJ was 2,116 inmates with a maximum capacity to house 2,993 inmates.

The state appropriated funding through AB 109 to assist the counties with the implementation of realignment. This funding was divided between SCMJ, RCCC and County Probation (CP). According to published accounts, Sacramento County has received approximately \$287 million in supplemental funding to support realignment since 2011. RCCC was provided \$29 million each year of AB 109 realignment funds, making its annual budget a total of \$95 million.

The California State Legislature adopted SB 1022 in 2012 to assist the counties in funding the capital costs associated with realignment. Under the administration of the BSCC, each County is allocated SB 1022 funds, to help finance capital expenditures.

Sacramento County was initially authorized \$56 million in SB 1022 funds for construction in 2013. That allocation was increased to \$80 million when \$24 million previously allocated to other counties was not accepted and became transferrable to Sacramento County.

RCCC currently conducts a broad range of programs to facilitate inmates' re-entry to society, although the facilities are inadequate to serve all the needs of all of the inmates. As outlined in the Sacramento County Sheriff's Reentry Services Unit Program Guide, the programs include 10 Cognitive Behavior Therapy Treatment Programs, six Educational Programs, seven Vocational Programs and 13 Treatment Programs/Classes. However, when the 2019-2020 SCGJ toured RCCC on October 17, 2019, only 575 of the 1,725 total inmates housed at RCCC were participating in any type of programing, such as a work assignment, vocational training or an educational program.

There are currently 218 female inmates housed at RCCC. Male and female inmates are unable to participate in programs together, thus restricting the access for female inmates to participate in the majority of rehabilitative or vocational programs. The only rehabilitative trades offered to female inmates are Culinary Arts and a Janitorial Service vocational program. Additionally, they have access to two classroom programs, Thinking for Change and Cognitive Behavior Treatment.

At the time of this report RCCC can only provide re-entry training and education services to one-third of the inmates. For both females and males, the lack of programs for each inmate is due to RCCC's current lack of classroom facilities. Additional reasons include: short-term inmates are ineligible to participate because the amount of time to complete the class exceeds

the inmate's length of sentence; and serious offenders are not permitted to participate in some classes. Recidivism data shows that inmates who successfully complete RCCC re-entry programs have a 20 percent recidivism rate vs the 80 percent recidivism rate of inmates who leave prisons without skills or training.⁴

Furthermore, the perimeter fence, dorms and the trailers for classrooms are in need of repair, and there is limited space for medical and mental health treatment. Reports in the 1997-1998, 2009-2010 and 2018-2019 Sacramento County Grand Jury Report recorded similar deficiencies. The County will eventually have to provide funds for infrastructure improvements and the expansion of the medical and mental health services as well as the educational and vocational training opportunities for all inmates.

On June 20, 2019, a settlement in *Mays v. County of Sacramento*, was reached, which requires improvements in the Sacramento County jails. Specifically, the jails must reduce the use of solitary confinement, take additional measures to prevent suicide, expand program activities, treat mental illness and provide accommodations to inmates with disabilities. The federal court and the Prison Law Office will monitor all aspects of the *Mays Consent Decree* and the implementation of the remedial plans.

In light of the above, the 2019-2020 Grand Jury opened this investigation to understand why Sacramento County has not accepted funds from the State of California to improve the jails and inmate programs in the eight years since the passage of SB 1022.

It is our understanding that as of the date of this Report, no formal notification has been submitted by the Sacramento County to BSCC informing it that it does not plan to apply for these funds. Representatives of the Department of General Services, the County Executive, the Sheriff's Department and County Probation met with BSCC in January 2020. The plan is to report back to BSCC within six months as to if and how Sacramento County plans to seek SB 1022 funds for the RCCC expansion.

FINDINGS

F1. Due to realignment and the *Mays* Consent Decree the Sacramento County jails must provide additional educational and vocational training, medical and mental health services, and brings the facilities into compliance with ADA.

⁴ Sacramento County Sheriff's Reentry Services Unit Program Guide, pp. 12-14.

F2. The Grand Jury is aware, based on its interviews and research, that there are those who believe that acceptance of any funds would be an endorsement of a policy of increased incarceration. The Grand Jury believes proponents of the project should emphasize the importance of increased services and programs to ultimately reduce recidivism and improve the post incarceration lives of the inmates and their families.

F3. Accepting the SB 1022 funds will commit the County to spending between \$6-8 million each year for 30 years or until the bonds are repaid for staffing and operating costs.

F4. If the County does not accept the SB 1022 funds, the structural improvements identified by the Sheriff, DGS and the County Executive as essential to meet the housing, educational and medical and mental health service needs of long term inmates at RCCC will require county funds to be accomplished.

F5. Whether or not Sacramento County accepts the SB 1022 funds, the County will still be responsible to fund all the changes required by the *Mays* Consent Decree.

RECOMMENDATIONS

R1. By December 31, 2020, the Board of Supervisors should accept the \$80 million made available to Sacramento County through SB1022.

R2. By June 1, 2021, the Sheriff's Department should develop and begin implementation of the most cost-effective plan to achieve the objectives of the RCCC expansion and infrastructure improvement project.

R3. By June 20, 2021, the Board of Supervisors in co-operation with the Sheriff's Department should include in implementation plans the flexibility to reduce operating expenditures to the extent required by reductions in jail population.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the 2019-2020 Sacramento County Grand Jury requests responses from the following elected officials within 60 days:

- Sacramento County Board of Supervisors
700 H Street, Suite 1450
Sacramento, CA 95814

- Sheriff Scott R. Jones
711 G Street
Sacramento, CA 95814

Mail or deliver a hard copy response to:

- Hon. Russell Hom
Presiding Judge
720 9th Street
Sacramento, CA 95814

Please email a copy of this response to:

- Paul Thorn
Jury Commissioner
ThornP@saccourt.ca.gov
- Ms. Erendira Tapia-Bouthillier
Grand Jury
TapiaE@saccourt.ca.gov

INVITED RESPONSES

- Navdeep S. Gill
County Executive
700 H Street
Sacramento, CA 95814
- Jeffrey J. Gassaway
Director
County of Sacramento
Department of General Services
9660 Ecology Lane
Sacramento, CA 95827
- Captain Jim Barnes
Commander
Rio Cosumnes Correctional Center
12500 Bruceville Rd.
Elk Grove, CA 95757

Mail or deliver a hard copy response to:

- Hon. Russell Hom
Presiding Judge
Sacramento County Superior Court
720 9th Street
Sacramento, CA 95814

Please email a copy of this response to:

- Paul Thorn
Jury Commissioner
ThornP@saccourt.ca.gov
- Ms. Erendira Tapia-Bouthillier
Grand Jury
TapiaE@saccourt.ca.gov

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides

