



# AB 1468

# Report

*January 15, 2015*

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## REPORT REQUIREMENT

Chapter 26, Statutes of 2014 (AB 1468) requires the Department of Finance to submit a report to the Legislature on or before January 15, 2015 with options for ways the state might assist Los Angeles County with its mental health and infrastructure needs as it replaces its Men's Central Jail.

The complete language reads as follows:

"Section 1. (a) The Legislature finds and declares all of the following:

1. The state has provided counties with the opportunity to receive lease revenue bond financing to improve local correctional facilities.
2. However, for the construction of certain in-custody mental health treatment and rehabilitation facilities, where the state portion of construction would be minor, state lease revenue financing may not be an appropriate mechanism.
3. As the largest local correctional and justice system in the nation, it is important to explore improvements to the county's efforts to improve mental health treatment and maximize the efforts to improve criminal justice outcomes and reduce recidivism.
4. The Department of Finance, in consultation with the County of Los Angeles, shall identify options for ways the state may assist in addressing the mental health and health infrastructure needs of the County of Los Angeles jail system, and to report its findings to the Joint Legislative Budget Committee on or before January 15, 2015."

This report is respectfully submitted to the Legislature in fulfillment of this reporting requirement.

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## INTRODUCTION

Los Angeles County operates the largest county jail system in the country consisting of eight facilities with a rated capacity of about 14,000. Between October 1, 2011 and September 30, 2014, approximately 30.4 percent of the state prison system's intake was from Los Angeles County. The state and county systems are part of the same continuum and success or failure at the local level, particularly in the state's largest county, has a major impact on the state's prison system.

Over the last decade, and particularly since 2011, the state has taken significant steps to address overcrowding in the state prison system and encourage more effective and efficient management of offenders across the state-local criminal justice system. As part of this effort, a key policy question has been, given the limited number of both prison and jail beds, where should offenders serve their sentences — at the state or local level.

2011 Public Safety Realignment shifted the jurisdiction of many lower-level offenders from the state to counties. In support of Realignment, the state has provided both financial resources and flexibility so local criminal justice system leaders can manage their population in ways other than incarceration — such as through the use of alternative custody measures, enhanced credits, and the ability to contract with the state or other counties for housing. Supervision and rehabilitative services and treatment have been enhanced in an effort to help break the cycle of crime. In addition, there was a significant expansion of substance use disorder treatment services as part of the state's implementation of federal health care reform along with an expansion of mental health services within managed care plans.

Two recent changes will have an impact on the population serving sentences in jail. First, legislation effective January 1, 2015 (Chapter 26, Statutes of 2014 (AB 1468)) requires a presumption of a split sentence for all county jail felonies. This change should reduce the amount of time realigned offenders serve in jail and increase their time in treatment. Second, Proposition 47, the Safe Neighborhoods and Schools Act, enacted in November 2014, reclassifies certain felonies to misdemeanors, which will lead to offenders serving less time in jail if they have only misdemeanor charges.

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## **JAIL CAPACITY**

An important component of these recent changes has been state investment in new county jail facilities both to increase capacity where needed and provide better treatment and programming space.

Nineteen counties (37 jails) currently operate under some type of facility population cap. The tools local officials now have to manage their population in alternative ways will provide some assistance in keeping populations at or under those caps. Proposition 47 will also change who is in jail.

Since 2007, the state has also authorized \$2.2 billion in state General Fund lease revenue bonds for construction of local jail facilities. There have been four separate authorizations – Chapter 7, Statutes of 2007 (AB 900) that resulted in two phases of funding, Chapter 42, Statutes of 2012 (SB 1022), and Chapter 37, Statutes of 2014 (SB 863). AB 900 Phase 2 funding was primarily focused on those counties with the largest number of offenders, essentially targeting those counties with overcrowded facilities. Between AB 900 and SB 1022, approximately 10,000 beds have been added at the local level and funding has gone to eight of the counties operating under a population cap. The Request for Proposals for SB 863 will be released by the Board of State and Community Corrections by June 2015.

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## LOS ANGELES JAIL AND MENTAL HEALTH INFORMATION

To assess options for consideration of ways the state might assist Los Angeles County with its jail replacement, it is important to understand the size and complexity of the County custody and mental health systems.

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### JAILS

As previously stated, Los Angeles County operates eight facilities with a rated capacity of about 14,000. The Los Angeles Men's Central jail, built in 1963 and remodeled in 1976, is the oldest facility in the County and operates under a population cap. It has a rated capacity of 5,108, or about 36.5 percent of the beds in the County. As of November 24, 2014, the County indicates that it exceeded its overall rated capacity by almost 3,500 inmates.

Based on its 2012 statistical information, the Los Angeles County Sheriff's Department indicates there were approximately 391,000 arrests in Los Angeles County. Of those arrested, only 142,000 (36.3 percent) resulted in bookings into the jail system. Currently, Los Angeles indicates that offenders sentenced to 30 days or less serve no time in jail; other misdemeanants serve 90 percent of their sentence and offenders sentenced under Realignment serve 100 percent of their jail sentence.

The Department also indicates pre-trial inmates charged with misdemeanor crimes are usually not detained in the jail. In early 2014, the Department found that 15 percent of inmates being booked into the jail on a misdemeanor charge also had other arrest charges, bail amounts or warrants that prohibited their release from jail.

As of November 24, 2014, there were approximately 17,400 inmates in the LA jail system. Of those, 8,837 (50.8 percent) were serving a sentence while 8,566 were pre-trial inmates. Roughly 40 percent of the inmates in the jail system are involved in some kind of programming and receive enhanced credits. These credit earnings are estimated to save the equivalent of 900 beds. The County also houses approximately 400 offenders at a California Department of Corrections and Rehabilitation supervised fire camp.

The Sheriff's Department indicates that in fiscal year 2013-14 it successfully diverted approximately 6,600 inmates into community-based alternative custody programs, including work release, home electronic monitoring, and a weekender program. The Department also enrolled at least 4,200 inmates into transitional programs where they receive case management services for a year following their release from custody.

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**MENTAL HEALTH****IN CUSTODY**

The Sheriff's Department indicates that approximately 20 percent, or roughly 3,500 in-custody inmates have mental health issues.

The Los Angeles County Department of Mental Health provides mental health treatment in the jail. Inmates receiving services are housed according to clinical need with four levels of care: inpatient, acute housing, service area and the general population on psychotropic medications. About 100 of these inmates are classified as incompetent to stand trial and are awaiting admittance to a state hospital.

Mental health services are currently provided at the Twin Tower facility which is seriously deficient in treatment space given the number and high treatment needs of offenders.

The Sheriff's Department and County Mental Health offer a spectrum of transitional services to offenders as they re-enter the community. As offenders are released from jail, they are often referred to an Institution for Mental Disease, a step-down facility or re-entry facilities. The Sheriff's Department uses a Community Transition Unit to provide transitional services requested by the inmate or a case manager. The Unit works with county Mental Health to place offenders coming out of jail in appropriate services.

**LOS ANGELES COUNTY FUNDING FOR MENTAL HEALTH SERVICES**

Counties receive funding for Mental Health services from three primary sources – 1991 and 2011 Realignment, Mental Health Services Act (Proposition 63) and federal funds for Medicaid reimbursable services. For 2013-14 (last actual), Los Angeles County indicates it received \$328.3 million from Realignment funding, \$369.8 million from Proposition 63 funds and \$530 million in federal funds for a total of \$1.2 billion. The County also indicates that of this amount, \$34.9 million of Realignment funding and \$4.7 million of Proposition 63 funds are used in the jails. These funding sources may also serve offenders who are on probation, mandatory supervision, or felony probation but since that population is served in general outpatient clinics the funds are not tracked by any offender status. Funding from these sources is estimated to be slightly higher in 2014-15.

The County has also allocated close to \$100 million of its AB 109 Community Corrections Program funding in 2014-15 for mental health and substance use disorder services. Some of these funds may be used to match the federal funds identified above.

As part of the 2013 Mental Health Wellness Act (Chapter 34, Statutes of 2013 (SB 82)), the Los Angeles Department of Mental Health received about \$50 million in total. Of this amount, \$40.9 million is for crisis residential beds, crisis stabilization beds and mobile crisis teams. Los Angeles County also will receive about \$9 million in Proposition 63 funds annually for an additional 175 staff to provide mental health crisis support services in the community. The Department indicates it will fund Forensic Outreach Teams comprised of a clinician and a mental health consumer to expand opportunities to provide mental health services to offenders being released under AB 109 (Chapter 15, Statutes of 2011). Services will include intensive short-term case management for up to 60 days to more successfully link offenders to community services upon release from jail. These teams will be an additional component of the county efforts to divert mentally ill offenders from jail or prison.

Since July 2014, the Sheriff's Department and County have been enrolling inmates in the Affordable Care Act Medi-Cal program, which gives offenders who are not incarcerated the ability to receive medical, substance use disorder, and mental health services.

**RECENT COUNTY EFFORTS**

Under the leadership of the Los Angeles District Attorney, a county task force is currently focused on additional ways to divert mentally ill criminal defendants from jail. The task force will identify service gaps specifically in the areas of housing for persons with severe mental health needs, substance use disorder services, job readiness and placement services. The implementation strategy for this diversion program has a projected goal of diverting a minimum of 1,000 eligible inmates from jail. Another component of this effort would be a diversion program at each stage of the criminal justice continuum.

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## **PROPOSED LOS ANGELES COUNTY JAIL CONSTRUCTION**

Los Angeles County received a state jail construction award of \$100 million under AB 900 Phase 2. Originally, the County planned to use its award to construct a new 1,024-bed facility at the Pitchess Detention Center. In March 2013, the County Board of Supervisors instead gave direction to study a move to the Mira Loma Facility, which was then vacant. In November 2013, the Board of State and Community Corrections approved the request to relocate the Los Angeles AB 900 Phase II Jail Construction Financing Program project to the Mira Loma site which will house female offenders.

Los Angeles County was unsuccessful in its attempt to receive a second grant award under the SB 1022 requirements.

The Los Angeles County Board of Supervisors voted on August 5, 2014 to replace the existing 5,100 Men's Central Jail in downtown Los Angeles. At the time of approval, it was assumed the replacement facility would have 5,000 beds with as many as 3,500 mental health beds. The project is estimated to cost between \$1.7 and \$2.2 billion depending on the number of mental health beds included in the design. There are approved agreements with consultants on various scoping documents, an environmental impact report and site investigations (topography, central plant assessment, etc.). As of October 2014, it was estimated the environmental impact report should be completed by the fourth quarter of 2015, with construction beginning in the second quarter of 2018. Completion of construction is targeted for the fourth quarter of 2021, with full occupancy by the end of the first quarter in 2022. This is a design-build project.

Given the significant cost of this replacement project, it is not feasible for Los Angeles County to compete for a state award under SB 863. The County will have to issue bonds for construction of the project and two bond holders on the same project are not allowed under bond financing laws. Under state requirements, the state must own the project until the state bonds are paid off. This would be unreasonable under the Los Angeles construct because the maximum grant for a state project has been \$80 to \$100 million – a very small percentage of the value of the Los Angeles project.

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**STATE CONSIDERATION**

In proposing and supporting 2011 Public Safety Realignment, the Administration was emphasizing that just incarcerating offenders is no longer feasible nor desirable. Alternatives to incarceration and an emphasis on rehabilitative programs and treatment are critical components of a criminal justice system. The state, as part of its support of Realignment, has not only protected funding for the community corrections program but has also funded the expansion of the Medi-Cal program as part of health care reform implementation and has expanded both mental health and substance use disorder services.

While not a complete compendium of everything Los Angeles County is doing in either the jail or county, the information noted above is important in that it demonstrates the county’s commitment to identifying alternatives to incarceration. The County seems to actively engage the community in finding alternatives and has taken advantage of new state resources where possible for additional treatment and services. The County has also recently improved its use of split sentences for those offenders sentenced for realigned crimes. This means additional supervision and treatment should be part of the Los Angeles plan for implementing Realignment.

The state has not wanted to provide assistance in jail construction since Realignment unless that capacity is generally for replacement beds and has treatment and programming space as a component of the project.

The Los Angeles County Board of Supervisors has already made the determination that Men’s Central Jail should be replaced. It has also determined that mental health treatment space is a priority for this facility. While the criminal justice system is currently in flux given the recent passage of Proposition 47 and Los Angeles County activities are in flux with its recent emphasis on additional diversion of offenders with mental health needs, the County has determined it still needs a replacement facility. It is not up to the state to determine the scope of that facility.

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**OPTIONS TO PROVIDE ASSISTANCE TO LOS ANGELES COUNTY**

As noted above, with the shift of lower-level offenders from the state to the counties, the two systems—state and local— have become even more interconnected. The success of the state in meeting its required capacity under the federal three judge panel order is tied in significant ways to how counties handle their offender populations. That is even more the case for Los Angeles County, which accounts for almost one-third of the criminal justice system.

With this in mind, the following options could be considered if the state chooses to provide financial assistance to the County as it replaces the Men's Central jail. These options are not mutually exclusive and must be considered in the context of overall General Fund budget constraints.

Option 1. Appropriate General Fund for a number of years to help Los Angeles meet its debt service payment.

For large counties, the maximum construction grant was \$100 million under AB 900 and \$80 million under SB 1022. Financing a project results in the costs being approximately double. Consideration could be given to providing Los Angeles County an amount not to exceed \$160 million to \$200 million over a number of years once it starts making debt payments. This would be equivalent to the assistance given other large counties for jail construction.

Option 2. Provide financial assistance to Los Angeles' efforts to expand its mental health diversion programs.

As Los Angeles continues to study the gaps in its community mental health system, it may find that additional crisis residential beds, crisis stabilization beds, or mobile crisis teams are needed to make additional diversion attempts successful. As it did with the Mental Health Wellness Program, the state could fund some part of any identified need.

Option 3. Provide additional funding for a Mentally Ill Offender Crime Reduction (MIOCR) Grant targeted to Los Angeles County.

MIOCR grants were originally funded in the mid- to late-1990's and were evaluated as being successful in keeping those with mental health needs out of the criminal justice system or in keeping them from being repeat offenders. Eighteen million dollars from the Recidivism Reduction Fund was included for in the 2014 Budget Act for MIOCR grants. This was one-time funding with half being available for adult programs and half for juvenile programs. Additional funding could be targeted to Los Angeles County.

Option 4. Create a collaborative corrections program between the state and Los Angeles County that makes the system more efficient.

This concept would continue to reduce the silos in the state-local criminal justice system and develop a strategic partnership that reduces the County's impact on the state prison system.

This approach would have to be developed through discussions between the state and Los Angeles County to determine what options might be most viable and would require an in-depth analysis of who is coming to state prison from Los Angeles.

Examples of ideas include:

- The California Department of Corrections and Rehabilitation could be located on-site conducting assessments of offenders coming to state prison thereby saving some costs in its reception centers.
- Some of the beds in a new facility could be designated for the state to provide restoration of competency treatment for offenders identified as Incompetent to Stand Trial and waiting in county jail until a state hospital bed is available.
- Have the County consider keeping those offenders who have the possibility of a length of stay of less than one year in prison.
- Dedicate some of the treatment space specifically for parole violators in an effort to reduce their recidivism rates.

Discussions could result in a compendium of many new and different ways the state and its largest county could collaborate to improve the services and treatment for offenders and reduce costs.

## C onclusion

The Administration was not asked for a recommendation as part of this report. However, in considering the request of Los Angeles County for assistance in building a new facility, the Administration's interest would be to continue improvement in the efficient and effective management of the state-local criminal justice system. Simply funding part of any replacement facility will not necessarily achieve those goals, though better beds and treatment space should lead to overall improvements in the system. Therefore, the Administration would be amenable to a continuing dialogue with the County on specific opportunities to develop new partnerships in administering programs within the criminal justice system.



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