

From: Aaron Fischer <ajf@aaronfischerlaw.com>
Sent: Thursday, May 11, 2023 2:24 PM
To: sbcob
Cc: Warren, Rana; Holderness, Amber; Montez, Michelle; Terri McDonald; tbelavi@aol.com; Homer Venters; julian.martinez@sabotconsult.com; Daniel Godinez; Sarah Gregory; Josh Toll; Stacy Foster; Michelle Kotval
Subject: Murray Class Counsel letter, 5/16 BOS Meeting, Item 23-00492
Attachments: 2023-05-11 Murray Class Counsel Letter to BoS, Santa Barbara County Jail Plans.pdf

Caution: This email originated from a source outside of the County of Santa Barbara. Do not click links or open attachments unless you verify the sender and know the content is safe.

Clerk of the Board,

Please find attached the letter from class counsel in *Murray v. County of Santa Barbara*, regarding BoS agenda item 23-00492 - Consider recommendations regarding direction on design of renovations at the Santa Barbara Main Jail (Second District) and possible construction at the Northern Branch Jail (Fifth District), Project No. 20041.

Thank you.

Aaron J. Fischer
 (he/him)



Law Office of Aaron J. Fischer
 1400 Shattuck Avenue, Ste. 12, #344
 Berkeley CA 94709
www.aaronfischerlaw.com
 Phone: (510) 806-7366
 Fax: (510) 694-6314
 Email: ajf@aaronfischerlaw.com

PRIVILEGE AND CONFIDENTIALITY NOTICE

This electronic mail message, and any documents, files, or previous e-mail transmissions attached to or forwarded with it, may contain information that is privileged, confidential, and/or otherwise legally protected and exempt from disclosure. Unless this message is addressed to you or you are authorized to receive it for the person to whom it is addressed, any disclosure, copying, distribution, or other use of the information contained herein is strictly prohibited. If you have received this electronic mail message in error, please destroy the message and any attachments immediately and notify the sender by reply e-mail to ajf@aaronfischerlaw.com.



May 11, 2023

Santa Barbara County Board of Supervisors
Clerk of the Board
sbcob@countyofsb.org

Re: *Murray v. County of Santa Barbara* Class Counsel Comment Letter
May 16, 2023 BOS Meeting Agenda Item on Santa Barbara County Jail

Dear Santa Barbara County Board of Supervisors:

As class counsel in *Murray v. County of Santa Barbara*, we write to provide information regarding the *Murray* lawsuit in advance of the Board of Supervisors meeting on plans for the Santa Barbara County Jail system (“Santa Barbara Main Jail Renovation Project - Direction on Design of Renovations at the Main Jail (Second District) and Possible Construction at the Northern Branch Jail (Fifth District)”), to be held on May 16, 2023.

I. *Murray* Case Background

The federal court-ordered *Murray* Stipulated Judgment requires certain minimum conditions in Santa Barbara County Jail facilities (“the Jails”), consistent with the requirements of the U.S. Constitution, the Americans with Disabilities Act, and relevant state statutes. The Remedial Plan sets forth detailed requirements for the provision of medical care and mental health care, the treatment of people with disabilities, environmental health and safety conditions, and the use of restrictive housing (also known as solitary confinement). These requirements are set forth in the Remedial Plan attached to the Stipulated Judgment, which is publicly available on the Disability Rights California *Murray* case page with other case documents, including compliance reports by independent Remedial Plan monitoring experts.

While much work remains to complete implementation of the Stipulated Judgment and Remedial Plan, *Murray* class counsel recognizes the significant progress that has been made to date. We are now at a critical moment for the County in charting a path forward to make success possible – that is, achieving full compliance and bringing the *Murray* case to resolution.

II. Jail Facility Remediation Needs, Staffing Shortages, and Incarcerated Population Stressors

As County leadership considers plans for the Santa Barbara County Jails, it is important to note that, while remediation of physical plant deficiencies is essential, the *Murray* Stipulated Judgment does not require the County to build a certain number of additional jail beds or to engage in any particular form of facility construction. It requires that the County meet minimum conditions for the people it chooses to incarcerate.

While the County determines the manner in which it complies with its legal obligations, the Stipulated Judgment specifically calls for consideration of jail population reduction measures to meet those obligations. The County has “agree[d] that population-related stressors pose operational challenges to [the County’s] ability to comply with this Remedial Plan,” and has “recognize[d] that if Jail population-related stressors are reduced, particularly as to people with disabilities, [the County] will be better able to ensure implementation of the Remedial Plan.” Stipulated Judgment at 4 (¶ 13).

Significant and sensible reduction of the incarcerated population is critical to achieving compliance with the Stipulated Judgment and resolution of the *Murray* case.¹

For example, the Stipulated Judgment requires appropriate staffing to deliver adequate health care services to people incarcerated in the Jails. The County has faced continued challenges in recruiting and retaining sufficient health care and custody staff – posing a major barrier in delivering timely and adequate care to the current jail population. While California’s workforce shortages are real, they are not an excuse for failure to meet constitutional, legal, and court-ordered requirements. And the higher the jail population, the greater the staffing needs to deliver necessary health care services.

A County jail facilities plan that maintains (or increases) the jail system’s operational bed capacity will be both expensive and self-defeating. Large jail facilities can be filled, but the reality is that Santa Barbara County will very likely be unable to provide the staffing or legally required treatment and services in a jail system with the current (or higher) population. If the County is unable to provide the necessary staffing and services to implement the *Murray* Stipulated Judgment, class counsel will proceed with a federal court enforcement action.

Class counsel strongly supports funding alternatives to incarceration, including through expansion of community-based services² and health centers for people with mental health and other disabilities. These alternatives are cost-effective, and people have improved outcomes when they receive services in the community rather than in jail. There is in fact a growing body of evidence that initiatives aimed at both decreasing the incarcerated population and increasing community-based alternatives serve to reduce jail operating expenses and capital costs for jail construction and improve conditions and care for those who are incarcerated consistent with legal and constitutional requirements and enhance public safety.³

¹ Class counsel has previously encouraged the County to pursue evidence-based jail population reduction measures, including in correspondence during the COVID-19 pandemic.

² Examples of effective community-based services include Full Service Partnership (FSP) and Assertive Community Treatment (ACT) programs. FSP programs include rehabilitative mental health services, intensive case management services, crisis services, and substance use disorder treatment, among other services and supports. 9 Cal. Code. Regs. §§ 3620, 3620.05. ACT is an evidence-based practice that utilizes a multidisciplinary team approach to provide a wide range of community-based intensive services to people living with severe mental health disabilities.

³ The “A Way Forward” report by the Bazelon Center for Mental Health Law and the ACLU of Southern California (July 2014) provides significant discussion on this topic. This year, the San Diego Association of Governments (SANDAG) completed a detailed report with data-driven

As discussed in the Santa Barbara County: Criminal Justice Overview and Jail Projections, by MW Consulting (June 2022), the County's incarcerated population has been trending downward, with several promising opportunities for further reductions. The County's jail population today stands at approximately 750 people. The MW Consulting report estimates that with Santa Barbara County's successful implementation of recommended policy initiatives, the long-term jail population would be reduced to around 600 people on a given day.

Murray class counsel urges Santa Barbara County leadership to continue and expand its commitment to substantially reduce the population and bed capacity of the Jails, consistent with meeting the obligations in, and achieving full compliance with, the *Murray* Stipulated Judgment.

III. Interim Physical Plant Remediation Measures at the Main Jail

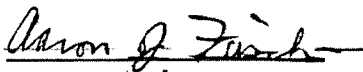
We understand that the County is considering a smaller jail footprint at the Main Jail in Santa Barbara, if and when additional beds are activated at the Northern Branch Jail in Santa Maria.

On this matter, we emphasize that physical plant and operational deficiencies at the Main Jail cannot be allowed to remain for several more years as construction is completed at the Northern Branch Jail. The County must allocate adequate resources for interim measures at the Main Jail, to address several serious, harmful, and ongoing deficiencies identified by the *Murray* Remedial Plan monitoring experts. Such issues include access to out-of-cell and outdoor recreation time, provision of timely medical and mental health care in confidential settings, remediation of deficient environmental health conditions, and removal of suicide-related hazards (e.g., attachment points in intake and restrictive housing units). The County must take up and address these issues in the near-term, concurrent with long-term compliance efforts.


We acknowledge and appreciate the efforts of staff across the County, including the Sheriff's Office's team involved in *Murray* implementation. Their efforts have led to meaningful progress on several fronts, even as the ongoing physical plant and staffing deficiencies present significant barriers to full implementation. All County agencies and stakeholders must provide input and play a role in charting a path forward on this important matter.

Murray class counsel will continue to advocate for the rights and well-being of those people who are incarcerated as this process unfolds. We thank you for your attention and consideration.

Sincerely yours,



Aaron Fischer
Law Office of Aaron J. Fischer



Joshua Toll
Stacy Foster
King & Spalding



Sarah Gregory
Michelle Kotval
Disability Rights California

Cc: Santa Barbara County Counsel
Murray Remedial Plan Expert Monitoring Team

analysis on policy interventions that would cost-effectively, safely, and permanently reduce the County's jail population.