



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Names: County Executive Office (CEO)
Department No: 012
For Agenda Of: July 12, 2022
Placement: Departmental
Estimated Tme: 45 minutes
Continued Item:
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Directors
Contact Info: Nicole Parmelee, Fiscal & Policy Analyst
Mona Miyasato, County Executive Officer
Nancy Anderson, Assistant County Executive Officer *NA*

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Mona Miyasato
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SUBJECT: Status Report on Criminal Justice Partners Improvement Efforts and MW Consulting Report on Santa Barbara County Criminal Justice Overview and Jail Projections

Recommended Actions:

It is recommended that the Board of Supervisors:

- a) Receive and file a report on criminal justice system improvement efforts;
- b) Receive and file a report by MW Consulting on Santa Barbara County Criminal Justice Overview and Jail Projections;
- c) Provide any direction, as appropriate;
- d) Direct staff to return in 90-120 days with another progress report; and
- e) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA), because pursuant to sections 15378(b)(4) and 15378(b)(5) the recommended actions consist of organizational, administrative or fiscal activities of government that will not result in direct or indirect physical changes in the environment.

Summary Text:

Today’s report provides 1) an update on the criminal justice system improvement efforts last reported to the Board on March 15, 2022; and 2) a presentation by MW Consulting on County criminal justice trends, long-term jail population projections and policy options to further reduce the population.

On March 15, 2022, staff provided the Board an update on several criminal justice system improvements, as tracked and reported by the “criminal justice initiative tracker,” a matrix of the activities and timelines for completion. The tracker was presented to your Board in October 2021. This report provides brief updates since the March 15th report.

Earlier this year, as the Board discussed potential changes to the Main Jail and a declining number of inmates due to COVID-related actions, the County Executive Office engaged Michael Wilson, PhD, of MW Consulting to evaluate jail trends and produce a jail population forecast. His work, as presented today, indicates that the long-term jail population is projected to remain between 800 and 900 beds, which may be reduced if changes in policy and practice are considered. The proposed policy levers are included in his report and are discussed in this presentation.

Discussion:

Significant efforts to collectively enhance the efficiency of the criminal justice system in Santa Barbara County are ongoing, and many have been underway since before the pandemic. Some initiatives have focused specifically on reducing recidivism and chances of a return to jail, some on diverting offenders from jail and reducing time in jail (when safe to do so), some on diverting those with mental illness from jail, and others on improving the overall speed and efficiency of the criminal justice system. Progress has been made, as demonstrated in this report, but many of these efforts require sustained intervention and effort by all criminal justice partners to produce lasting impact and improvement.

Update on Criminal Justice Improvement Initiatives

Since the last update to your Board in March 2022, staff from departments have continued to make progress in many areas. Below are project status updates on the most relevant initiatives and focus areas, listed in priority order.

- 1. Access to Incarcerated Clients.** This issue involves ensuring Sheriff jail staff provide attorneys (Public Defender, private and conflict panel), Court experts and Probation staff ongoing and reasonable access to clients as constitutionally mandated. While accommodations such as laptops, extended hours in Zoom rooms, and mobile carts have been implemented, the broader access issue continues to be an ongoing challenge that the justice partners discuss and evaluate regularly.

Update: The Main Jail has been experiencing a new COVID-19 outbreak since May 26, with 25 active cases and 50 total cases associated with this outbreak as of June 22, and as of that date there were no active COVID-19 cases at the Northern Branch Jail. Similar to previous outbreaks, this has resulted in operational impacts that are exacerbated by the staffing challenges in the Custody division. The Sheriff’s Office continues to work with the Public Defender and the Courts to mitigate access issues as they arise. The longer-term goal is creation of a process workflow that will support dependable, confidential, and standardized access protocols for the affected justice partners.

- 2. Resolve Aged Cases (Backlog).** This began as a collaboration between the Public Defender, District Attorney, and Courts to resolve cases of serious crime over 365 days old in order to promote closure for victims and defendants, as well as reduce the pretrial jail population. A total of 121 cases were initially identified as “aged” and prioritized for resolution. Continuing pandemic impacts and the Omicron surge, as well as pervasive staffing challenges, previously hindered robust efforts to continue to resolve these cases.

Update: For the FY 2022-23 budget hearings on June 14, the Public Defender and District Attorney submitted methods to track and utilize new staff to address the larger court case backlog, which includes the aged cases identified above. Dedicated funding was allotted from the County's allocation of the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Fund (SLFRF) for two Deputy District Attorneys and two Deputy Public Defenders to support resolution of the case backlog. Even prior to receipt of these additional resources, planning has begun with the District Attorney, Public Defender, and the Court to prepare for this work to occur. The Public Defender is creating a Power BI dashboard to track and report on progress of backlog cases, and a status update will be reported to the Board in the next CJP report. This item has been reprioritized due to the associated pressing needs, will prospectively be combined with the larger backlog population, and metrics will be provided in line with the backlog plan.

3. **Discovery.** This work seeks to identify technology solutions to enhance the efficiency of the discovery sharing process, from law enforcement to prosecutor to defense; identify potential need for additional staff in law enforcement, prosecution, or defense; and document the current process, ideal process, and create procedures to support the ideal process. A specialized InnovateSBC training was held focusing on cross-departmental process review in September 2021 and in October, departments participated in vendor demonstrations of digital evidence management software (DEMS).

Update: CJPs are currently collaborating on a Request for Proposals (RFP) for a digital evidence management software (DEMS), with the target release in August 2022. A provisional target date of June 2022 was presented in the last Board update; however, this target has been revised based on the level of complexity of this multi-department RFP and the overall workload of the involved CJP department representatives. As part of this process, departments are further clarifying their ideal evidence discovery workflows as supported by the use of a DEMS. Recommendations regarding technology investments and release of funding previously set aside for implementation will be brought back to the Board.

In addition, additional funding was appropriated for legal office professionals (LOPs) in the discovery units of the District Attorney and Public Defender offices in the FY 2022-23 Adopted Budget. This will help mitigate the impact of rapidly increasing digital discovery and the launch of body-worn cameras by the Sheriff's Office currently in progress. The departments will track and report on metrics to assess the impact on speed and efficiency of evidence processing and sharing, and additional LOP funding may be released based on the demonstrated need for additional resources. The CEO's Office and Judge Ellsworth will review these metrics in October 2022 to assess the need for potential release of additional funding, and quarterly thereafter if additional data review is deemed necessary.

4. **Multi-Disciplinary Teams (MDT).** The MDT intervenes at the earliest possible client contact with the legal system, assessing and pairing individuals with services unique to their needs. MDT provides early assessment, early access, case planning, oversight, and follow-through by practitioners best suited to perform these tasks. These early interventions help reduce both jail population and recidivism.

Update: Justice partners worked collaboratively to reach consensus regarding creation of a meaningful, active, and successful MDT. To reduce barriers, enhance coordination and collaboration between agencies, and remove work from silos, the Community Corrections Partnership (CCP) Workgroup approved funding in FY 2022-23 for an additional position to oversee case planning: the Multi-Agency Assessment, Case Planning and Re-entry Coordinator. As there is no equivalent position within the County currently, County HR is working to classify the position and design the qualifications. Once this process is completed, and following review by Probation and Sheriff, the recruitment will begin. The target timeline for the position to be hired is Fall of 2022.

- 5. Shared Alternative Sentencing Pilot.** An alternative sentence provides certain, typically first-time, offenders with the opportunity to serve their sentence via community or State programs, instead of through jail time. Alternative sentencing options benefit the accused, the criminal justice system, and society at-large, while reducing the total number of incarcerated individuals. Splitting the program into two components—referral/screening/booking and community supervision—allows each agency to offer its respective expertise to this population, which will enhance community safety and client outcomes.

Update: The departments finalized an MOU on May 12 to begin this collaborative effort to monitor eligible individuals serving their Court-ordered custodial commitments via electronic monitoring (EM) in lieu of incarceration. As of July 1, the Sheriff will continue to accept all Alternative Sentencing Program (ASP) applications, finalize eligibility, and book/re-house individuals prior to referring to Probation to begin the supervised portion of the commitment. Probation will supervise these individuals in the community, and will provide evidence-based assessment of individual needs, as well as subsequent referrals to community-based programs. Other program improvements include digitizing the application process and moving the screening stage earlier in the process. The early identification of potential eligible cases and the timely facilitation of the application process and provision of status information to the Court will help avoid unnecessary delays in criminal justice proceedings, and reduce or eliminate the need for individuals to return to Court and request extensions to remand dates following sentencing.

- 6. Pretrial Supervised Release.** This program is designed to identify suitable candidates for pretrial (both pre- and post-arraignment) release, while keeping victims and the community safe by monitoring compliance with release conditions. The program has grown rapidly, with services expanded to 548 supervised clients as of May 1, 2022, which is nearly double the number of clients monitored just one year prior. Probation has redirected internal resources to assist with the expansion, along with adding two new pretrial supervision positions funded through the CCP in FY 2022-23.

Update: In May, Probation's pretrial supervision was split into two units, one North County and one in South County, to better manage the expanded staffing. In addition to their regular pretrial assessment work, the pretrial assessment unit continues to assist with assessing clients for release from custody as part of various pilot initiatives, including the pre-arraignment release pilot and the misdemeanor IST pilot.

The pre-arraignment release pilot, which was effective in January, is aimed at providing Sheriff's Office staff with a process to use discretion when determining if defendants booked into County jail facilities on non-felony, non-violent misdemeanor warrants are eligible for citation release prior to arraignment. Pretrial staff then facilitate release and connect clients to services, if applicable. For the misdemeanor IST pilot, which is currently in the test case phase, the Public Defender, Behavioral Wellness, and Probation will seek to identify clients with competency issues as early as possible after a client is booked and provide rapid assessment and intervention.

- 7. Data Dashboard.** An interim static data dashboard was created, including Probation and Sheriff jail data, and a FAQ and glossary of terms. Available jail data includes population statistics—now refreshed daily—broken down by facility location, and additional breakdowns of monthly trends for the Main Jail population. In addition to the County dashboard, the Public Defender and District Attorney have worked to create their own individual dashboards. Probation and the Sheriff will continue to make improvements to the County dashboard as requested, and there will be further discussion about enhancements to the existing structure based on priority areas.

Update: No changes have been made since the last update due to other priority areas taking precedence, including the case backlog and client access issues, among others. As time permits and before the next update, CJPs will reconvene on this initiative to determine next steps, and incorporating any Board feedback on the existing framework, such as certain priority data points not yet included that should be added in the future.

- 8. Holistic Defense.** This multi-agency team-based response helps improve client outcomes and reduce recidivism by addressing the root causes of contact with the criminal justice system. Clients, attorneys, and advocates work in teams to secure pretrial release when appropriate, while addressing issues such as addiction, mental health conditions, unemployment, and homelessness. The Public Defender's Community Defender Division (CDD) was launched through various external funding sources and has continued to add staffing through a combination of grants and CCP funding. No General Fund funding currently exists for this program and existing grant funding expires in June 2023.

Update: Of the clients CDD worked with from July 1, 2021 through December 30, 2021, 11% were connected with employment. In addition, 61% of clients with housing needs, 80% with substance use needs, and 63% with mental health needs were connected with services; also, 54% of those who started out in-custody were released with community supports or services. Finally, of the clients partnered with CDD, 95% appeared in court for their next scheduled court date.

The prior Board update included the above statistics through September 30, 2021. To accelerate the reporting timeframe moving forward, the Public Defender is working on improving efficiency and automating data reporting to publish on a quarterly basis, leveraging Power BI. The first quarterly report will be available on October 1, 2022 for data within the first quarter of FY 2022-23.

Holistic defense can be used as a model program that has a direct effect on recidivism and the jail population, and statistics show that these early connections with clients support better overall outcomes. Next steps will include partnering with Probation to expand data tracking to include recidivism statistics.

- 9. Diversion.** Felony diversion programs provide a pre-filing "off-ramp" from the criminal justice system for appropriate candidates, where partner agencies and community members define program parameters and rehabilitation efforts. To address lower level crime, the Neighborhood Restorative Justice Program (NRJP) uses the concept of restorative justice through community-based solutions to quickly repair the harm caused by these crimes, outside of the traditional criminal justice system. Restorative justice offers a wide range of benefits and allows for communities, offenders, and victims, if they choose, to participate in assessing harm, measuring reparations, and addressing prevention of future crimes.

Due to delays with Center for Court Innovation (CCI) funding from the National Training and Technical Assistance Center (NTTAC), the felony diversion program has been delayed; however, the District Attorney anticipates the program starting later this summer.

Update: The District Attorney's Office recently launched the NJRP as of June 9, with the goal of serving at least 50 individuals per year. Currently there have been 23 total referrals to the program, of which two conferences have been completed, six conferences are scheduled, four cases were returned for regular court processing (program participant declined or unable to make contact), and 11 cases are pending response from the program participant.

Though the above listed initiatives are prioritized for implementation due to their ability to result in immediate and long-lasting positive impacts, work is ongoing for many others. The next Board update

will include the status of the above initiatives, as well as any additional strategies that may be taken into consideration.

MW Consulting Report: Santa Barbara County Criminal Justice Overview and Jail Projections (Attachment B)

In FY 2021-22, the County Executive Office engaged MW Consulting to analyze County criminal justice trends, project the long-term jail population and explore policy options to reduce the jail population. The policy options, or levers, in the report are beyond just Board consideration and would require CJP collaboration and concurrence for any proposed future changes in process and procedures with public safety taken into consideration. While the CJPs have worked diligently and in collaboration on the initiatives discussed earlier, the information in this report has identified ways to leverage these efforts to safely and meaningfully reduce the County's jail population. It is notable that the CJPs have actively engaged in improved processes that either speak directly to the report's recommendations or provide insight into future data points to track and report.

The report indicates that the long-term jail population is projected to remain between 800 and 900 beds, which may be reduced if changes in policy and practice are considered. The proposed policy levers include:

1. Expanding diversion
2. Reducing jail time for those booked with a warrant
3. Expanding use of electronic monitoring
4. Reducing jail reincarceration for probationers
5. Reducing jail length of stay for those transferred to the State

These policy levers were presented as options to reduce the County's long-term jail population. As the report states, the policies "would require careful planning and investments to reduce the future jail population effectively." The CJPs view these recommendations, which are each attached to a number of beds reduced, in separate categories: those more easily addressed and quantified, and those requiring more time and review to develop a plan for implementation. While the partners agree with the policy options in concept and will use this knowledge to guide the work efforts already underway, further discussion and analysis will be necessary to determine realistic applications of the recommendations, with public safety considerations at the forefront.

Also, how much an existing program needs to be expanded, or to what degree new programs should be created, to have the impacts described in the forecast model is unknown at this time and requires further review. The Criminal Justice Department Directors, CEO staff, or Judge Ellsworth do not yet have the ability to translate these policy levers into what resources would be needed, if any, and how they could be best deployed to make the changes described by MW Consulting's jail projection model. However, some of these activities are already in progress—or others that are working positively to safely reduce the jail population. Further evaluation is necessary, as described below.

What are we already doing?

As of late June, the inmate population for the entire County jail system (Main Jail and Northern Branch Jail) was 757 inmates, of which approximately 50 were awaiting transfer to State Hospital or State Prison. The unsentenced population has decreased from nearly 84% in recent months, to approximately 76%. This encouraging trajectory can be correlated with the variety of initiatives and programs that the County has already implemented. Several areas have direct nexuses to supporting reduction of the jail population as indicated in the report findings, including those listed below.

Programs/Initiatives Already Funded/Underway	Corresponding Policy Levers	Funded in FY 2022-23	FY 2018-19 - FY 2021-22	Funding Sources
Backlog/Aged Cases	5	\$625,600	\$0	ARPA
MDT (Reentry Coordinator)	2,4	\$157,400	\$0	CCP/Realignment
Pretrial Services *Excludes pretrial services funding received by Court Special Services in FY 2018-19.	1,2	\$5,106,101	\$8,936,134*	GFC, Prop 172, Pretrial Pilot Grant, SB 129, CCP/Realignment
Holistic Defense	4	\$1,500,900	\$3,008,112	CCP, CREDO-47, SB 1810, HHAP
Felony Diversion	1,4	TBD	\$0	NTTAC

In addition to the programs and initiatives listed above with direct nexuses to the policy options in Mr. Wilson's report, below are additional ways in which the CJP's are supporting long-term reduction of the jail population through holistic system-wide improvements.

Early Representation. Studies indicate that early representation can meaningfully reduce pretrial incarceration, and that justice outcomes are better served when defense counsel is involved at the earliest stages of a criminal proceeding. This involves meeting a client prior to arraignment and providing representation at that hearing and/or at any prior appearance that may occur. This ideology also underpins the recent investments in arraignment staffing as a strategy to address case backlog and reduce pretrial incarceration. Recent California pilot programs have demonstrated that where public defenders represented clients at arraignment, defendants spent less time in custody and were more likely to be released on bail, the county benefited financially, and overall better justice and due process outcomes were realized. The Public Defender was recently awarded a grant through the Center for Court Innovation that supports a work group to model early representation in the County.

Co-Response. This form of early intervention and potential justice system off-ramp includes three teams comprised of a Crisis Intervention Training (CIT)-trained Sheriff's deputy from the Sheriff's Office and a mental health practitioner from Behavioral Wellness to respond to mental health crisis calls with the goal of de-escalating crises and diverting individuals away from the criminal justice system and into treatment when safe and appropriate to do so. These teams cost approximately \$1.2 million annually, and the Sheriff costs are funded through federal ARPA dollars for the next three years.

Misdemeanor Court. For the first time in the County's recent history, there are now dedicated courts for misdemeanors only—one in North County and one in South County. The opening of dedicated misdemeanor courts is a significant benefit for both the District Attorney and Public Defender, as it allows the departments to specifically train misdemeanor attorneys and mentor them, while improving attorneys' knowledge of standards and expectations of minimum sentencing and other factors. By increasing standardization and streamlining the court process, this tailored approach is resulting in cases settling more quickly—realizing staffing efficiencies for the CJP's and the Court, providing more expedient and fair access to justice for involved individuals, and affording cost savings for the County.

Which policy levers could be more easily addressed with the largest impact?

Policy Lever #3: Expanded use of electronic monitoring. This policy may be a more immediately viable option to pursue implementation. This is a defined, limited population of individuals in or entering the jail, where historical population data is available and projections for improvement can be made.

The newly finalized Alternative Sentencing agreement that begins July 1 between Sheriff and Probation, for Probation to assume responsibility of the supervision component, may allow for redirection of available resources to examine opportunities for improving efficiencies related to the program application process and determine the potential for increasing this population over time. The Probation Department plans to track program participants, program completions and terminations (and reasons for those) as well as referrals and the services provided. Improving transparency and efficiency within the application process will ensure consistency and equity for applicants and optimize program participation to reduce time spent in jail. The potential to expand the program further will be assessed once the results of the full implementation of these changes are measurable and demonstrate the anticipated benefits.

Policy Lever #5: Reduced jail length of stay for those transferred to the State. This policy may be a more immediately viable option to pursue implementation as it relates to the length of time that passes *before* the decision is made to send an individual to State prison. This would be a two-pronged approach of increasing the jail-based competency program for felony Incompetent to Stand Trial (IST) individuals, and for those going to State prison, reducing the case backlog and addressing any delays that may occur in the sentencing process.

Which policy levers require further analysis and consideration?

Policy Lever #1: Expanded diversions. This policy will require additional time to vet options for implementation with CJPs and will likely require funding resources to create additional criminal justice system “off-ramps” and/or diversion from traditional court remedies. Additionally, there is pending legislation via Governor Newsom’s Community Assistance, Recovery, and Empowerment (CARE) Court program that may impact misdemeanor jail diversion.

Certain off-ramps from the criminal justice traditional track, such as Alternative Sentencing, are not considered true diversion, which is a pre-plea opportunity for the accused to participate in certain programs, varying degrees of supervision, and/or restitution, for example. With pre-plea diversion, once the accused has completed the terms of their diversion, the case is dismissed and becomes as if it never existed. The County utilizes mental health diversion, judicial diversion, diversion involving District Attorney sign-off, and once funded, the soon-to-be-launched felony diversion program—all of which are pre-plea. Until the CJPs can identify all the off-ramps and separate those cases from diversion cases, we cannot quantify these cases as viable reductions in jail population. The CJPs will work toward defining and analyzing diversion options that currently exist, with the goal of creating countywide consistency in determination of eligibility, offers, counter-offers, and collaboration among departments and the Court. Development of a strategic plan that provides for this consistency in application and allows for judicial determination and independence would also promote transparency and accountability, as well as building trust among the partners.

Policy Lever #2: Reduced jail time for those booked with warrant. This policy will require additional time to vet options for implementation with CJPs, and may require commitment from the Court. Additionally, there may be timing issues given the zero-bail environment pursuant to pandemic impacts. However, work continues on reducing the number of outstanding warrants through cooperative meetings between the Sheriff, Public Defender, District Attorney, and the Court, discussing various options such as

public service announcements, amnesty, and other ways to deal more quickly and effectively with warrant-based incarceration. Moving towards these types of options that are pre-booking, at the time of booking, or shortly thereafter, will support reduction of the number of incarcerated individuals needing intervention early in the process.

Policy Lever #4: Reduced jail reincarceration for probationers. This policy will require additional time to vet options for implementation with CJPs, although there are a number of internal projects underway that will make progress in this area.

In summary, collaboration between the CJPs is breaking down the past siloed approach to processes, programs, and policies. While some accomplishments may not be easily quantifiable, there have been enhancements to transparency and accountability, and with work being done to enhance access to justice, improvement is occurring with overall timing, retention, and disposition of cases.

Reduction of the jail population is embedded in your Board's overall desire to enhance services, policies, and processes through accountability and transparency. Your Board has supported numerous criminal justice system improvements through funding allocations in the budget; additionally, the CJPs have pursued and obtained funding from external sources to support these priority areas. Reducing the jail population can be achieved as a positive collateral consequence of many efforts already underway, as well as by applying the findings in Mr. Wilson's report and employing the policy options to better inform decision-making. The next Board update will include further analysis of the remaining policy levers and options for implementation, based on Board direction and priorities in response to this report.

System-wide Rated Jail Bed Capacity (Attachment C)

Incorporated in the County's 2011 application to the Board of State Community Corrections (BSCC) for funding under AB 900 to construct the Northern Branch Jail (NBJ), the County committed to construct 344 new jail beds, which at the time would have resulted in the County maintaining 1,034 rated beds system-wide. Upon being awarded \$80 million in AB 900 funding, the County entered into several agreements to manage the construction of the new facility.

As a result of the possible reduction in the total number of beds within the existing Main Jail related to the pending renovation project, the total number of system-wide beds will likely fall below the 1,034 figure identified in the County's AB 900 application. Over the past few months, General Services, the Sheriff, and County Counsel have successfully worked with the State to clarify that the County's obligation under the AB 900 funding agreements is solely related to the 344 new beds constructed at the NBJ and does not require the County to maintain a fixed number of jail beds system-wide. Attached to this board letter is a copy of the Fourth Amendment to the Construction Agreement with the BSCC that includes a restatement of AB 900 Phase II Requirements that explicitly affirms the Agreement does not require the County to maintain any specified county-wide level of rated capacity as a condition of the program. Additionally, the California Department of Corrections and Rehabilitation has confirmed that there is no system-wide number of beds required throughout Santa Barbara County's jail facilities.

Background:

In March 2021, the County Executive Office entered into a service contract with retired Judge Sherrill Ellsworth (former Presiding Judge of Riverside County) of Adjudicate Services, LLC to work with the criminal justice partners (CJPs) to develop a "to-do list" of initiatives to improve the criminal justice system, establish working groups to develop recommended action plans, and convene "action pods" to implement the plans. After an information gathering and idea-generation period, Judge Ellsworth created

Page 10 of 10

Criminal Justice Improvement Efforts

worked with stakeholders to create a list of initiatives that could be implemented over time to create efficiencies and assist with longevity planning in the criminal justice system—and to work towards the overarching goals of elevating safety, justice, wellness, and equity.

Fiscal Analysis:

Narrative: There are no fiscal impacts associated with receiving this report. Any recommendations for funding of the initiatives discussed in this letter will return to the Board for approval.

Attachment:

Criminal Justice Initiative Tracking Sheet
Santa Barbara County Criminal Justice Overview and Jail Projections
Fourth Amendment to AB900 Phase II Construction Agreement

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