

Issues Contributing to the Overcrowding in the Santa Cruz County Main Jail

Synopsis

Since it opened in 1981, the Santa Cruz main jail has been overcrowded. Potential causes of this overcrowding are reviewed in this report to determine if any change in efficiency or policy could reduce the overcrowding and allow the existing facility to meet the state mandated capacity. Although several factors could mitigate the overcrowding, this report has concluded that nothing would enable the jail to meet the state mandated capacity. The Santa Cruz main jail is simply too small for the county's needs.

Background

The main jail is presently operating at approximately 30% overcapacity with 400+ persons versus the rated 311 persons, as defined by the California Board of Corrections. Data from the last 12 years illustrates the severity of the main jail overpopulation problem.

The temporary drop in population at the main jail in 1996 and 1999 was largely due to the opening and then expansion of the Rountree facility in Watsonville, which alleviated some main jail overcrowding.

Since 1999, the population of the main jail has grown steadily. Although the population growth of Santa Cruz County is minimal, the impact of a very large population center from the nearby San Francisco Bay Area is significant. Figure 1 charts the 12-year main jail population with lowest population month, and the highest population month for each of the last twelve years vs. the state-mandated capacity.

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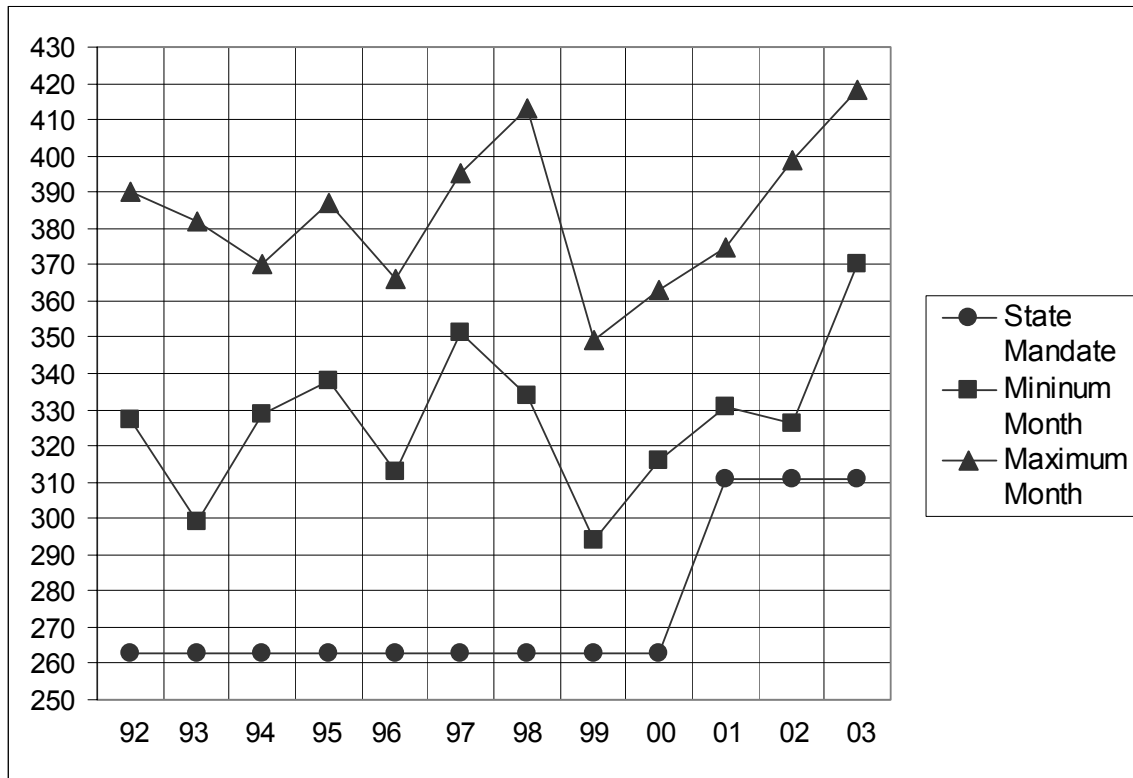


Figure 1. Santa Cruz Main Jail Population, 1992 – 2003

As with most of the county’s departments and agencies, the Santa Cruz Sheriff’s Detention Bureau is under budgetary stress. The bureau’s planned reduction in staff for 2003-2004 will potentially result in further reduction of mandated capacity by the California Board of Corrections.

A jail capacity is based on the “Board Rated Capacity” in the year it was built. Requirements are complex and found in the Title 24 of the California Building Codes. Capacity can be rated on such things as: sleeping area, inmate to toilet ratio, inmate to shower ratio, washbasin ratio, day room space, etc.

The main jail was completed in 1981 after significant resistance from the local political leadership, particularly the Board of Supervisors. In 1972, the county was sued in Federal Court (*Sandoval vs. James*; *Sandoval vs. Noren*) resulting in a consent decree in 1978, requiring the county stop overcrowding its jails.¹ The county built the main jail with 98 beds, which still serves as the primary correctional facility today². As soon as it was opened, over 150 inmates from the old jail were moved into the new jail immediately

¹ US District Court Docket *Sandoval vs. James*; *Sandoval vs. Noren* Pretrial brief and opinion

² “Supervisors vote 5-0 for new jail,” Santa Cruz Sentinel, 15 December 1976.

overcrowding it. An addition to the main jail was completed in 1986-1987, expanding the mandated capacity to 263 beds. A grant was obtained from federal and state funding to internally expand the main jail allowing a mandated capacity of 311 in 2002. Continued growth of inmate population in the overcrowded main jail facility will require significant additional capital for facility expansion.

The main jail is the holding place for both sentenced and unsentenced inmates arrested for all categories of crimes. The Sheriff's Detention Bureau is unable to control the length of stay for individual inmates until sentencing is complete. After sentencing, longer-term inmates are transferred to the state prison system. Qualified inmates are transferred to medium or minimum-security facilities at a lower cost of incarceration.

Over 9,600 complaints or cases are handled annually by the Santa Cruz County Courts. Approximately 2,300 of these are felonies. The main jail is the primary facility for booking, and, if required, for holding defendants both prior to and after arraignment.

Approximately 20% of the inmates are under medical care, primarily for chemical dependencies. Medical service costs are difficult to forecast and, as one of the largest expense items in the main jail detention budget, are about 30% of this year's expenses to date. Length of stay has a direct bearing on medical services costs.

Anything that can be done to reduce the holding time for inmates at the main jail will reap direct cost reductions and delay significant capital expenditures. This is particularly important during the existing budget crisis.

Scope

The Grand Jury evaluated seven factors that have the potential to extend the holding time of inmates in the main jail. These factors surfaced from various interviews during the Grand Jury investigation of the main jail overcrowding.

1. Parole (Morrissey) hearing delays: Inmates sentenced to long terms are transferred from state prisons to the Santa Cruz main jail, usually three to five days prior to their local parole hearings. Any delays in the parole hearing may temporarily increase inmate population until the hearing is completed.
2. Law and Motion delays, generally referred to as "1050" delays among unsentenced inmates due to various court calendar delays: Law and Motion delays include those proposed by the judge or his judicial staff, the prosecution or his staff and the defense attorneys.
3. Inmates waiting for transfer to special rehabilitation programs including the Substance Abuse and Crime Prevention Act also known as Proposition 36. The

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main jail acts as custodial housing for inmates sentenced to special rehabilitation programs such as Proposition 36. If openings or beds are not available at the time an inmate is sentenced, the delay increases the jail population.

4. Sequential short-term misdemeanor sentencing as an alternative to felony extended sentencing: Some defendants found guilty of traditional felonies may receive multiple short sentences that enable the defendant to avoid state prison. These people may end up in the main jail for a period of time greater than a year rather than being transferred to state prisons.
5. Delayed release of inmates approved on their Own Recognizance (OR): The Sheriff's Department can recommend certain individuals be released as OR. If determined late in the week, it may take several days to get judicial approval due to weekend court closure, temporarily increasing the jail population.
6. Delays during the process of Penal Code 1368 mental competency hearings and waiting for openings at a state mental facility: In many cases the jail must provide medication and care for inmates that would otherwise be transferred to a mental hospital.
7. There is a body of opinion that the growth of prison populations both nationally as well as our local situation could be significantly reduced if a policy was instituted to avoid incarceration for convictions of drug abuse or property crimes. The Grand Jury reviewed some data to ascertain the impact on the main jail population of inmates now held for drug offenses only. Reduction in the main jail population based on this category would require a statutory change from the existing state or federal law and is therefore out of local control. The data is reviewed for information only.

Sources

Interviewed:

Santa Cruz County Sheriff's Detention Bureau.
Crisis Intervention Team of the Health Services Agency.
Quality Improvement Coordinator.
Court Administrative Staff.

Reviewed:

Santa Cruz County Sheriff-Coroner Work Sheets.
Superior Court Santa Cruz County Minute Order and Worksheets.
Detention Bureau – Selected Statistics Report for January 2004.

United States District Court Docket – Sandoval vs. James; Sandoval vs. Noren – Pretrial Brief and Opinion
 “Supervisors Vote 5-0 for New Jail,” Santa Cruz Sentinel, 15 December 1976.
 Center on Juvenile & Criminal Justice, News and Policy updates, Winter 2003.
 Detention Management System, non-bail releases May-June 2003.
 Morrissey Hearing Data Report 8/21/03 thru 10/23/03.
 Inmate Housing Code 212 Report 11/10/03.
 Felony Sentencing Sequential Under 1 Year Data Sheets 5/09/03 – 9/22/03.
 “Jail Overcrowding,” Santa Cruz Civil Grand Jury Report 1993-94.
 Planning and Construction, Department Facilities Management Division. Project Development and Management. California State Board of Corrections.
 Biennial Inspection Report August 18, 2003, California Board of Corrections.

Findings

1. The Santa Cruz County main jail has been overcrowded since it opened in 1981.

Response: Santa Cruz County Board of Supervisors AGREES.

Response: Santa Cruz County Sheriff AGREES.

2. Data on inmates transferred to the main jail for parole hearings (Morrissey) was evaluated for a 60-day period starting mid-August 2003. During this period, 20 inmates were transferred mostly from the Santa Rita State Prison to the Santa Cruz main jail to wait for their parole hearings. The holding period was distributed as follows:

Number of Inmates	Number of Days Held
2	1
4	4
1	5
11	6
1	12
1	16

Average Inmate Stay: 5.85 days

Mid-August to Mid-October 2003

Table 1. Length of Stay for Inmates Awaiting Parole Hearings

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A holding period of five days or less requires scheduling transportation inbound and outbound within a two-day window around the day of a hearing. The Sheriff's department maintains that planning on anything shorter is not practical. If the total number of inmate days in our data could be reduced to an average of five days that would equal a total of 29 days in a 60-day period or less than one-half of an inmate on average.

Response: Santa Cruz County Sheriff AGREES.

The Sheriff's Office coordinates with State Parole to transport parolees to and from Santa Rita Jail to the Main Jail as efficiently as possible based on existing transportation resources. Ninety percent of the parolees referenced in the Grand Jury Report were held six days or less at the Main Jail while involved in Morrissey hearings.

3. Data was analyzed for all inmates held in the main jail over 30 days from arraignment, but not sentenced. A snapshot of the data on November 18, 2003, revealed 124 inmates held over 30 days from arraignment. Additional holding time until the next scheduled court appearance for each case is totaled as well as the totals of motion delays initiated by defense, prosecution and judicial. These delays are coded in the court minute orders as "1050" motions.

Data shows that most motions for delays are initiated by the defense. Some defendants prefer the Santa Cruz jail to state facilities, and any delays of the court process will count toward their ultimate sentence therefore defense attorneys have little incentive to expedite the process. However the prosecution requests delays as well, often because certain prosecution witnesses including arresting officers may not be available so a continuance is requested. Prosecutors usually have many cases pending and these delays, though not necessarily initiated by the prosecution, are accepted without much opposition. It falls on the judges to decide on these motion delays. Judges must consider the "fairness" as well as any judicial decisions that may be viewed as reason for an appeal.

Using a normal distribution throughout the year, total delays over one month from arraignment contribute approximately 40 inmates to the overcrowded condition.

The distribution of "1050" motions is as follows:

Number of Inmates	Time Held as of Nov. 18, 2003	Additional Time to Next Scheduled Court Appearance	Total Cumulative Months' Delay Over Initial 30 Days
36	1 - 2 months	26.9 months	44.9 months
26	2 - 3 months	17 months	114.9 months
15	3 - 4 months	8.9 months	37.5 months
9	4 - 5 months	10 months	41.5 months
8	5 - 6 months	9 months	45 months
6	6 - 7 months	4.5 months	37.5 months
9	7 - 8 months	6.4 months	64.9 months
7	8 - 9 months	5.7 months	58.2 months
5	9 - 10 months	5.4 months	47.9 months
0	10 - 11 months	---	---
2	11 - 12 months	4.5 months	25.5 months
1	Over 1 year	2.1 months	14.1 months

Total Cumulative Months' Delay Over 30 Days: 531.5 months

Table 2. Inmates Held for 1050 Motions as of 11-18-2003

- Data was analyzed on inmates waiting for transfer to special rehabilitation programs including Proposition 36. A snapshot of data on November 10, 2003, revealed three inmates were being held at the main jail as custodial housing waiting for beds in special rehabilitation programs such as those mandated by Proposition 36. None of these inmates had been held over a week.

Response: Santa Cruz County Sheriff AGREES.

Program capacity is a factor beyond the control of the Sheriff's Office and lack of program capacity or inmate assessment for program eligibility may contribute to

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jail crowding. The number of inmates who are awaiting a rehabilitation program vary. On August 29, 2004, there were 11 inmates awaiting a program.

5. A snapshot of data on October 29, 2003 showed eight inmates in the main jail with sequential sentencing that exceeded one year. Normally inmates sentenced over one year for one or more offenses are transferred to state prisons, alleviating the main jail population. However when a convicted inmate is sequentially sentenced with terms less than one year, the court can remand them to local hold. Six different judges sentenced the eight inmates in this data category.
6. The daily OR (Own Recognizance) releases, by day of the week, for a 60-day period of May and June 2003 are shown in the table below:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Sheriff OR	50	50	44	45	66	86	102
Court OR	55	84	72	71	73	5	2
349(B) OR	52	40	32	41	60	91	84
CIT OR	13	9	6	6	2	0	0

Table 3. Own Recognizance Releases, May - June 2003

The four categories of OR release include the following:

- a. A Sheriff OR Release is based on guidelines that allow the County Detention Bureau discretion to release inmates with the provision that they appear for court arraignment. Since this is under the discretion of the Sheriff's Detention Bureau, it is assumed that the bureau exercises the releases without delay to alleviate any unnecessary increase in the jail population.
- b. Court OR release is presently limited to Monday through Friday, causing the population in the main jail to increase during the weekends while these inmates await court hearings. A program to have pretrial release specialists review all arrestees and arrange for a judge to be available on weekends is no longer used in Santa Cruz County. When it was in effect, this program helped smooth out the population increase on weekends. It is difficult to specifically translate the numerical impact on overall population averages but, based on the limited data available, it could be as many as a 10 to 15 inmate reduction on average.

- c. An OR release under Penal Code 849 (B) 2 is for arrests for public intoxication only. The arresting officer is authorized to release such an arrestee with the provision that he show for appointed arraignment after a several hour drying-out period. Since the arrestee stays incarcerated for less than one day, it is unlikely that any opportunity for population reduction exists in this category.
- d. The Health Services Agency's Crisis Intervention Team (CIT) can recommend OR release for select individuals under its care while incarcerated. Since CIT does not operate over the weekend, no releases occurred during weekends. The total number of CIT releases is so small that very little benefit can be found by extending its release activity to weekends.

Response: Santa Cruz County Sheriff PARTIALLY AGREES.

Category (b.) requires further explanation. The Probation Department currently operates the Pretrial Services Program and it is staffed by three full-time probation officers assigned to the Main Jail. Pretrial Services does work on selected weekends. The Sheriff formed a Jail Overcrowding Committee on July 23, 2004, composed of members of the criminal justice system, including the chief probation officer. The chief probation officer is currently reviewing the Pretrial Services Program to evaluate its efficiency. It is possible that adjustments to the program may have a positive impact on jail overcrowding.

7. The average daily population of inmates accused of crimes and determined by CIT to be mentally disturbed ranges from 50 to 70 people throughout the year. They are segregated from the main jail population and are overseen by the Health Services Agency's Crisis Intervention Team. A snapshot of data on December 18, 2003 reveals 53 inmates meeting these criteria. Approximately forty of these inmates require psychotropic medication prescribed to manage serious bi-polar or schizophrenic conditions. Defense attorneys may request competency hearings under Penal Code 1368. The main jail holds defendants while the psychiatrist makes a determination and reports to the judge. The judge then rules whether the defendant can stand for the crimes accused. Any delays in the psychiatric determination, the judge's ruling, or delays in holding inmates waiting for a bed to open at the state mental facility can increase the main jail population. Approximately one to three inmates are held for this process per month.

Response: Santa Cruz County Sheriff AGREES.

8. Data to determine the impact on main jail population of decriminalizing drug offenses is difficult to analyze. Most offenders have complex histories and the booking reports reflect a large number of arrests for parole and probation violations

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and other crimes. The courts under state and federal statutes now determine whether these persons should be incarcerated. None of the 124 inmates in the Santa Cruz County court process that are 30 days past arraignment on November 18, 2003 are being held only for drug usage, possession or possession of paraphernalia.

Response: Santa Cruz County Sheriff AGREES.

9. The main jail is now reviewed under new standards. When the main jail was built in 1981, the ratio for toilets was 1:8, showers 1:16, wash basins 1:8. The newer code ratio is less stringent with toilets 1:10, showers 1:20, etc.

Response: Santa Cruz County Board of Supervisors AGREES.

Response: Santa Cruz County Sheriff AGREES.

10. A VOTIS (Violent Offender Truth in Sentencing) federal grant enabled the Sheriff's Department to offset a cut in its operating budget that resulted in a staff reduction of 62 people. This reduction would have reduced the California Board of Corrections mandated capacity of the jail to 249 persons. Because of the VOTIS grant the mandated capacity can be maintained at 311 persons.

Response: Santa Cruz County Board of Supervisors AGREES.

Response: Santa Cruz County Sheriff PARTIALLY AGREES.

Physical plant improvements in North and South Housing allowed the Main Jail to increase its Board rated capacity (BRC) by 62 inmates, for a total BRC of 311 inmates.

11. The California Board of Corrections Biennial Inspection under Penal Code 6031 report of August 18, 2003 highlighted overcrowding as a significant non-compliance issue with the main jail as follows:
“These crowded conditions and inadequate staffing levels expose the Sheriff’s Department and the County of Santa Cruz to potential litigation. As this situation persists with inmates literally pressed against one another, there is a greater likelihood for increased assaults (e.g. inmate versus inmate or inmate versus staff) resulting in serious injury. While we acknowledge the economic downturn to the State of California and the 58 counties of this State, we must inform you that the Santa Cruz County Main Jail is not in compliance with *Title 15, CCR, Section 1027, Number of Personnel, and Title 24, CCR, Section 470A.2.9 Dayrooms.*”

Response: Santa Cruz County Board of Supervisors AGREES.

The Sheriff is working to address these issues and has convened a committee to address issues arising from overcrowded facilities.

Response: Santa Cruz County Sheriff AGREES.

Conclusions

1. Jail populations cannot be significantly reduced by shortening the average holding time for Morrissey or parole hearings.
2. Shortening the time lost to Law and Motion delays could significantly mitigate some overcrowding, although not sufficiently to meet the state mandated capacity.
3. The number of inmates being held at the main jail as custodial housing while waiting for a bed in special rehabilitation programs such as Propositions 36 was too small to consider the data significant.
4. Increased population due to sequential sentencing has been invoked by several different judges and affects only a small number of cases.
5. A program to have OR pretrial release specialists review all arrestees and arrange for a judge to be available to allow weekend release could help smooth out the population increase on weekends. Based on the limited data, it could be as much as a 10 to 15 inmate reduction on average. However, this is not sufficient to satisfy the state-mandated capacity.
6. Improving the 1368 competency hearing process offers little benefit to reduction of the main jail population.
7. Santa Cruz avoids incarceration solely for usage or possession of drugs. Therefore arrest bookings for drug usage, possession or possession of paraphernalia solely are not factors in main jail overcrowding. A formal policy to not incarcerate for drug crimes would require a significant shift in our society and its cultural attitude toward such crimes.
8. Although several factors could mitigate the overcrowding, this report has concluded that nothing would enable the jail to meet the state-mandated capacity. The Santa Cruz main jail is simply too small for the County's needs.
9. Crowded conditions and inadequate staffing levels expose the Sheriff's Department and the County of Santa Cruz to potential litigation.

Recommendations

1. The main jail needs additional capacity, with consideration of the next 10 to 20 years' projected inmate population. Avoiding action until another lawsuit forces action is both irresponsible and will be costly to settle. The continued decades of overcrowding will not go away by ignoring the problem.

Response: Santa Cruz County Board of Supervisors AGREES.

The County recognizes that a thorough analysis of the associated problems and the implementation of solutions requires the cooperation of a number of entities related to law enforcement, probation, the courts and health services.

The Board has requested the Sheriff's Office to return in October 2004 with a report on jail overcrowding. Subsequently, the Sheriff has organized a Jail Overcrowding Committee comprising representatives from the Sheriff's Office, the Health Services Agency, County Counsel, the Santa Cruz City Police Department, the District Attorney's Office, the Probation Department, the Courts, the Public Defender, State Parole and the County Administrative Office. The purpose of the committee is to explore the role of each of these agencies and how each affects the jail population. As of August 28, 2004, the committee has met twice and will continue to meet monthly during the coming months.

Additionally, the Health Services Agency will begin working with the Sheriff and other local law enforcement agencies on a new program to help avoid unnecessary incarcerations and hospitalizations. An experienced mental health clinician will be involved in the 5150 (involuntary hold) evaluations to help access crisis medications and beds. Mental Health is scheduled to begin a pilot "ride along program" with the Sheriff in October 2004 as a part of this effort and hopes to expand joint 5150 evaluations with the Santa Cruz City Police Department in the near future.

Response: Santa Cruz County Sheriff CANNOT RESPOND.

This recommendation requires further analysis.

There may be a need for an increase in capacity to incarcerate both sentenced and unsentenced inmates, and the Sheriff will continue to advise the County Board of Supervisors and County Administrative Office of those needs on an ongoing basis. It is possible, however, current systemic modifications and efficiencies that can mitigate the need for additional capacity, for the present time, and ensure that existing resources and systems are being fully utilized. The Sheriff formed a Jail Overcrowding Committee on July 23, 2004, composed of members of the Judiciary,

Prosecution, Defense, Probation, Parole, County Administration, County Counsel, Health Services Agency and other criminal justice professionals to study jail overcrowding and its causes, identify systemic problems contributing to jail overcrowding and recommend those modifications that can be accomplished without unreasonably compromising public safety. On August 24, 2004, the Sheriff formally requested a Local System Assessment by the National Institute of Corrections (NIC) to allow national correctional professionals to examine the Main Jail systems and make recommendations concerning jail overcrowding. The NIC has not responded as of this time.

2. Judges, while maintaining judicial fairness, need to be mindful of the community impact on legal motion delays as well as sequential short-term sentencing that maintains inmates in the main jail rather than remanding them to out-of-county state facilities.

Response: Santa Cruz County Board of Supervisors CANNOT RESPOND.

Because the Courts are a separate branch of government and judges are individually elected, the County Board of Supervisors has no role in their decisions. However, it should be noted that the Court is participating in and will play a critical role in the efforts of the Jail Overcrowding Committee.

3. Detention staff should be commended for doing their best to maintain standards under difficult conditions.

Response: Santa Cruz County Board of Supervisors AGREES.

The County Board of Supervisors appreciates and shares the Grand Jury's recognition of the Detention Bureau staff.

Responses Required

Entity	Findings	Recommendations	Respond Within
Santa Cruz County Board of Supervisors	1, 9, 10, 11	1 - 3	90 days (September 30, 2004)
Santa Cruz County Sheriff	1, 2, 4, 6 - 11	1	90 days (September 30, 2004)
Superior Court	3, 5	2	90 days (September 30, 2004)