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“Care Not Cages”:  
A Case Study of Abolitionist Organizing in Sacramento County

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## **Abstract**

This paper is an archival and ethnographic case study of community contestation and abolitionist refusal of carceral expansion in Sacramento County, California. Tracing recent carceral histories through legal, economic, and ideological geographies, I reveal how grassroots abolitionist organizing prevented two jail expansion projects from 2019 to 2021. Through participant observation and document review, I explore three sites of carceral expansion: (1) jail conditions litigation, or class-action lawsuits addressing profound abuses inside jails; (2) the role of finance capital investment from California's Public Safety Realignment, and (3) the ideology of carceral humanism that attempts to justify carceral expansion as a necessary for improving medical and mental health care inside jails. I find that Sacramento County's political-economic conditions created by Public Safety Realignment, jail conditions litigation, and carceral ideologies created a landscape ripe for carceral expansion. By contesting these three sites through the formation of abolitionist knowledge and discourse, community organizers were able to prevent two jail expansion projects and open pathways for decarceration and community reinvestment.

## **Acknowledgements**

This work would not have been possible without the powerful, courageous, and tireless community organizers who I have worked with over the past few years to form Decarcerate Sacramento. Y'all are my thought partners, comrades, my chosen family and I appreciate you more than you'll ever know.

I have come to abolition work as a sibling of someone who has been caged by county jails, as someone who has lost family to intimate partner violence, and as a white person who understands that my liberation is not possible without Black and Indigenous liberation. I am committed to the work of abolition not only through preventing carceral expansion but also through building systems of accountability and care that prevent harm and truly keep communities safe.

To think that any of the ideas written here are sole, independent thoughts, denies the collective process of study and learning together which is central to abolition. To individualize thoughts in this paper is to perpetuate the neoliberal university—to individualize the process of education, research, and study, which would validate the very logics that we aim to dismantle. While I have written these words, the ideas that formed them emerged collectively, through working with others in the struggle for abolition.

As institutional actors work to deny, co-opt, then erase our work, writing this archival account, in many ways, liberates. I write this humbly, but presumptively. That it may inform and encourage future generations of community organizers to record their stories. I hope that they find this useful, and that this history is remembered, and learned from, as we continue to fight for abolition.

*"Community development is the process of people working together to solve problems that they cannot solve alone." -Isao Fujimoto, Cofounder of the UC Davis Community Development Graduate Group*

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## Introduction

*“What happens to our analysis when we allow our gaze at the prison to lose focus, and look at the edges of sight? We begin to think less about the prison as punishment, and more about its place in economic and political structures of capitalism” (Schept 2017).*

There is a constant threat of erasure of abolitionist movement work and resistance to state violence. Institutional media upholds narratives of the state, failing to acknowledge the role of local communities in historic political events. Honoring author and activist Mariame Kaba’s call to document our work as abolitionist organizers and write ourselves into the record, this work preserves the recent history of abolition work in Sacramento County, California (2021). By exploring the grassroots abolitionist movement of one place, this work builds on the legacy of abolitionist organizing in California and provides insights for other abolitionist fights throughout the state.

Focusing on Sacramento County, a place that is most often referenced only as a geography where state laws are created, this work makes visible the impacts of statewide lawmaking on the community in which these decisions are made. California’s Public Safety Realignment, which shifted incarceration sentences from state prisons to county jails, presented consequences and opportunities for grassroots abolitionist organizers. While this realignment created new, localized complexities to the carceral geography in California, it opened a new front to the struggle for abolition, tearing open pathways for local communities to confront carceral expansion and shift local narratives towards reimagining and redefining public safety while exposing the horrific realities of county jail incarceration that have too often gone unnoticed. Sacramento County abolitionist organizers were uniquely positioned to stop carceral expansion,

providing a specific, yet in many ways replicable, example of abolitionist organizing in a post-Realignment era; where local counties have become threatened with dangerous carceral growth.

This crisis of what the county’s own consultants name as “over-incarceration” in Sacramento County<sup>1</sup> is deeply connected to broader histories of California’s prison-building boom and national trends of mass incarceration. The United States is globally recognized for incarcerating one in four of the world’s prisoners, a trend that occurred alongside California’s world-record setting prison-building project, when the state built 23 new prisons from 1982 to 2002 (Gilmore 2007). This state prison-building project, rooted in systems of racial capitalism, occurred in part because of the state’s failure to plan for equity-centered community development while the state continued to divest from social services, opening pathways for surplus capital to invest municipal bonds in prison construction (Gilmore 2007). These capital investment opportunities have since slowed at the state-level and have found local counties and cities as a new geography ripe for carceral expansion. Sacramento County organizers have recognized that the plans to expand the county’s two jails were continuations of California’s carceral history.

Decarcerate Sacramento, a coalition founded in 2019 with the original goals of preventing Sacramento County jail expansions, decreasing jail populations, and shifting county funding priorities toward public health and community-based systems of care. Over the past two years, the group has forced a shift in county narratives, named the violent structures of Sacramento County government, provided principled and accessible tools to organize their

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<sup>1</sup>In 2017, Sacramento County’s incarceration rate was 47% higher than other California counties of similar populations. See Mark Carey and Susan Burke, “Sacramento County Consultant Report on Jail Alternatives,” *The Carey Group*, May 2020, 4. <https://dhs.saccounty.net/PUB/Documents/Public-Health-Advisory-Board/PHAB-Meeting-Documents/2020/Handouts/November/Sacramento%20County%20Jail%20Report%20FINAL%20May%2029%202020.pdf>



community, and has built relationships with powerful stakeholders. Decarcerate Sacramento has focused primarily on advocacy and policy reform as a tool for abolition, making a strong distinction between ‘abolitionist reform’ and ‘reformist reform,’<sup>2</sup> which has enabled the collective actions of community members themselves to form the power to stop jail expansion projects. Community’s passion and desire to participate in the movement against local jail expansions, ignited by the organizing of DS members, ultimately led to the prevention of hundreds of millions of dollars being spent on local jail construction.

This paper will focus on the causes of two jail expansion plans in Sacramento County, one at each of its county jails, the Rio Cosumnes Correctional Center (RCCC) expansion project and the Sacramento County Main Jail “Annex” project. The RCCC expansion project began in 2014, sparked by funding from Public Safety Realignment (AB109) in 2011, and was further solidified by carceral humanism and the 2016 *Mays v. Sacramento* lawsuit. After five months of advocacy, the RCCC jail expansion plan was officially cancelled on November 5th, 2019. The plan for the Main Jail “Annex” project emerged as a solution to the medical and mental health abuses exposed in the *Mays v. Sacramento* lawsuit. The legal investigation of the jails began in 2016, and by the time the *Mays* consent decree was finalized in 2019, the county was already planning to build a new, multi-story “Correctional Health and Mental Health Services Facility” next to the existing downtown jail. After many years of tireless organizing, the Main Jail expansion project was cancelled on March 10th, 2021.

Chapter One will deepen this timeline of events, from the founding of Decarcerate Sacramento, to the moment where Sacramento County no longer had plans for jail expansion.

Chapter Two will discuss conditions litigation as a site of carceral expansion, leading to the

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<sup>2</sup>See “Reformist Reforms vs. Abolitionist Steps to End Imprisonment,” *Critical Resistance*, 2021. [http://criticalresistance.org/wp-content/uploads/2021/02/CR\\_abolitioniststeps\\_antieexpansion\\_2021\\_eng.pdf](http://criticalresistance.org/wp-content/uploads/2021/02/CR_abolitioniststeps_antieexpansion_2021_eng.pdf)

economic drivers of jail construction that have followed litigation in Chapter Three. Finally, Chapter Four will focus on the ideologies of carceral humanism that drove Sacramento County jail expansion in the name of better treatment of those incarcerated. This chapter will expose the false narratives of carceral humanism, showing that the county's focus on a new building would not address the true causes of neglect and abuse inside. Examining three sites of knowledge- law, capital, and ideology- this work reveals that jail conditions litigation, finance capital from Public Safety Realignment, and logics of carceral humanism all worked to perpetuate carceral expansion in Sacramento County. By addressing these three sites of carceral expansion, Decarcerate Sacramento organized the Sacramento County community to accomplish what most thought was impossible.

The goal of this archival account is to create a narrative of Decarcerate Sacramento's work and outcomes that supports current and future organizers in reflecting on the context of the campaigns to prevent jail expansion. By interrogating the causes behind successful abolitionist organizing in Sacramento County, this case study can also provide a potential model for abolitionist strategies in other geographies.

## **Literature Review**

A wide collection of scholarship has shown that incarceration and policing have not ensured safety or stability for communities throughout the United States. The dependence on prisons and jails in the United States reflects a dominant social ideology that incarceration is necessary for social order (Davis 2003). Through functions of racial capitalism, prisons and jails have become practically and ideologically indispensable (Davis 2003). Human cages are now seen as a naturalized facet of society, especially in the United States. Prison abolitionist scholars challenge and resist this current social order; instead theorizing that enacting more violence and harm in response to violence and harm in fact perpetuates trauma and does not prevent or solve the root causes of harmful behavior (Davis 2003, Gilmore 2007, Kaba 2021).

The abolition of prisons, jails, and all human caging requires the building of new systems that are needed for prisons and police to become obsolete (Davis 2003, Gilmore 2007, Kaba 2021, Schenwar and Law 2020). Just as it was difficult to imagine the abolition of slavery, lynching, and segregation, institutions that seemed inconceivable to live without, the abolition of human caging is our era's unimaginable (Davis 2003). Imagination is central to prison abolition and is critical to building a world where human caging is no longer a catch-all solution to social problems (Gilmore 2007). Collective reimagining will be critical to creating a world that we have not yet experienced; one that must be built through what Mariame Kaba calls a million different experiments (2021).

### *History of Criminalization and Incarceration*

In the United States especially, the ideological formation of racial inferiority of Black Americans has been forged alongside the social construction of criminality (Davis 2003,

Muhammad 2010). From Slave Codes becoming Black Codes beginning in 1865, the criminalization of emancipated Black people was explicit and intentional; new laws to target Black communities included vagrancy, absence from work, breaching job contracts, the possession of firearms, and “insulting gestures or acts”. The inherent anti-Blackness of the criminal legal system is made most obvious in the change from antebellum to postbellum incarcerated populations, shifting overwhelmingly from white to black almost overnight (Muhammad 2010, Davis 2003). As Khalil Gibran Muhammad explains; the ideological currency of Black criminality became the most durable signifier of Black inferiority since Jim Crow (2011).

Throughout the history of the United States, as popular opinions and attitudes shift which public institutions and practices are acceptable, laws have changed how criminality is defined, who are considered criminals (Davis 2003). W.E.B. Dubois believed that crime was a normal result of a “vast and sudden change like that of emancipation”, where Black people were forced by their new social situation to survive (Muhammad 2010, 85). But if we understand crime to be largely socially constructed, as can be shown through arbitrary Black Codes combined with the intentional absence of social services for Black communities, we can understand that the state’s crime and punishment structure was constructed at the expense of Black people (Davis 2003, Muhammad 2011). The Thirteenth Amendment to the Constitution abolished slavery except as punishment for crime, which then incentivized the criminalization of Blackness, and sparked the creation of laws that criminalized Black people (Davis 2003, Muhammad 2010). Punishments associated with slavery, from whippings to convict leasing, became further incorporated into the penal system, and the criminal justice system quickly became a means of controlling Black labor (Davis 2003, Muhammad 2010).

As incarceration itself became the primary mode of punishment in eighteenth century Europe and nineteenth century United States, this process was deeply connected to the rise of global capitalism and a new set of ideological conditions (Davis 2003). The rise of formal individual rights and liberties for white males came with the rise of the bourgeoisie and the quantifying labor value in time and compensation by money. The very concept of the “computability” of state punishment into a timed prison sentence resonates with the “role of labor-time as the basis for computing the value of capitalist commodities” (Davis 2003, 44). “Marxist theorists of punishment have noted that precisely the historical period during which the commodity form arose is the era during which the penitentiary sentences emerged as the primary form of punishment” (Davis 2003, 44). The prison has, therefore, become a tool of racial capitalism, which is made especially clear in the case of California.

### *Racial Capitalism and California Prison-Building*

California has carried-out the largest prison-building project in the history of the world (Gilmore 2007). From 1982 to 2002, California built 23 prisons, increasing its prison population by over 500% (Gilmore 2007). During that time, “tough-on-crime” era policies reproduced—and were produced by—racist ideologies that materialized in the rapid incarceration of Black and Brown communities. This violent method of population control, particularly after massive job loss in California, resulted in the cycle of building and filling state prisons to points of dangerous overcrowding that persist today (Gilmore 2007).

California acted as the primary engine for US economic growth in the ‘golden age’ of capitalism following the second world war (Gilmore 2007). Following the exhaustion of a reliance on federal defense funding over the next few decades—that had previously prevented

economic crises—the state began undoing social safety nets. Child poverty rates in California rose to 25% during the depression of the mid 1970s while population growth through immigration shifted the white majority, and voters implemented more regressive economic policies (Gilmore 2007). The delegitimization and defunding of state welfare programs, that soften the effects of crisis, started declining most rapidly in the 1980s (Gilmore 2007). As the state continued to divest from education and social services and drastic job losses continued, child poverty rates jumped an additional 67% (Gilmore 2007). This economic transformation played a central role in growing the carceral state (Wang 2018, Gilmore 2007).

California's political economy has gone through a series of crises that has produced surpluses of finance capital, workers, land, and state capacity (Gilmore 2007). When the rate of profit falls, Ruth Wilson Gilmore shows how capital operated differently than when profit rates were rising (2007). As productive investment opportunities waned, the surplus of property prompted investment in municipal bonds, as the credit system became an attractive venue of reliable income (Gilmore 2007). This shift in private capital starting in the late 1970s aligned with a shift in state government's willingness to ask voters before committing to long-term debt. "The expansion of privately held surplus value in California occurred on the heels of long-term public divestment and reduced opportunities for private investment" Gilmore explained (2007, 63). State government actors had the choice to develop public markets for private capital or invest in public infrastructure, and instead chose to develop prisons.

Throughout the 1980s, California droughts, farmer debt, and suburban development compounded and irrigated lands were removed from production en masse, resulting in unprecedented surpluses of land (Gilmore 2007). The loss of high-wage blue collar well-organized jobs became replaced by disorganized high and low-wage work. Meanwhile,

California voters pushed for austerity budgets—shifting the political landscape alongside the shift of capital and labor, resulting in the shift of state funding from the welfare of people to the welfare of capital (Gilmore 2007). Poverty more than doubled as workers from all kinds of sectors were pushed into worklessness and underemployment, resulting in many capital-labor relationships being eliminated or reorganized (Gilmore 2007). By the early 1990s, at least one million people constituted California’s relative surplus population, meaning over one million people were un- or underemployed. Drastic changes in public policy created the organized abandonment of entire segments of labor, which has resulted in previous social safety nets being replaced by “criminal dragnets”, which were critical in filling prisons (Gilmore 2007).

Surplus labor opens new domains for exploitation and value generation, through both moneylending and warehousing people in prisons and jails. Jackie Wang explains that capitalism generates racial order by fracturing the population into disposable, exploitable, inferior humans and “superior” humans, which is especially apparent in California’s prison-building project (Wang 2018). While austerity budgets rose despite state budget surpluses, the state had increased capacity to devote more resources to prisons (Gilmore 2007).

In response to these surpluses of land, labor, capital, and state-capacity, the state of California invested in what Ruth Wilson Gilmore calls “the prison fix”. “Prison-building was and is not the inevitable outcome of these surpluses. It did, however, put certain state capacities into motion, making use of a lot of idle land, get capital invested via public debt, and take more than 160,000 low-wage workers off the streets” (Gilmore 2007, 88). Gilmore explains that it was the continued building of new prison beds, fueled by political forces who created false narratives, that led to the system’s growth. With policy changes increasing prison sentences and increased

criminalization guaranteeing potential prisoners, the question became how to pay for the facilities to cage them in (Gilmore 2007).

Lease Revenue Bonds became California's solution. Throughout the 1980s, the California state legislature successfully petitioned voters to approve hundreds of millions of dollars in General Obligation Bonds (GOBs) to build and expand state prisons (Gilmore 2007). GOBs require approval of both the legislature and the electorate, which presented potential challenges for the political goal of rapid prison capacity-building (Gilmore 2007). So "the capitalists and the statesmen crafted a new way to borrow money for prisons from existing debt-raising capacities" by using Lease Revenue Bonds (LRBs) to supplement GOB debt (Gilmore 2007, 98). Lease Revenue Bonds solved the political challenge of raising exorbitant amounts of money, more than electeds were willing to request from voters, as LRBs are not required to be approved by voters. But when a state's expenditures are increasingly covered through borrowing rather than taxation, "it accumulates a debt mountain that it has to finance with an even greater share of its revenue" (James 1996). This model of public finance gradually transforms governments from a tax state into a debt state, making creditors the "privileged constituency" instead of the public (Wang 2018, 71).

While debt has allowed governing bodies to build prisons, it simultaneously allows for the criminalization and incarceration of individuals who are forced to accumulate debt. Wang explains that criminal justice debt is a racialized form of debt that is prevalent in black majority cities across the U.S. (2018). Municipal debt for individuals accrues through fines and fees that are imposed punitively, penalties for restitution, jail booking fees, post-conviction fees, and at the point of policing (Wang 2018). Extracting revenue, from Black residents especially, is a "systemic institutional practice", and while revenue is not necessarily a form of capital, Wang



explains how this revenue is indirectly used to subsidize the process of capital accumulation as municipal operations become thoroughly financialized (2018).

The localist model of municipal governance also plays an important role in the reproduction of class that fuels racial capitalism in the United States. Markusen highlights that “few other capitalist countries grant states or localities such extensive political autonomy”, in which their spatially and politically insular municipalities continue to enable class reproduction (1984, cited in Wang 2018, 182). As capitalist production accelerated the growth of cities in the late 1800s, local governments gradually assumed responsibility for building the infrastructure that supported capitalist production (Wang 2018). The uniquely localized municipal governance model in California has most recently supported interests of racial capitalism by enabling carceral expansion to be prioritized as a solution to capital surpluses.

### *Prison and Jail Conditions Litigation*

National and local legal systems in the United States and California have also been shown to support carceral expansion. Many scholars have examined the consequences of prison and jail conditions litigation—or the legal action in response to neglect and mistreatment of people who are incarcerated—which has played a significant role in prompting the expansion of jails and prisons across the United States (Duncombe and Straussman 1993, Schoenfeld 2010, Guetzkow and Schoon 2015, Ressler-Moyer et al. 2021). What Schoenfeld calls the ‘paradox of prison litigation’ demonstrates how choices made by policy makers to comply with prison litigation have long-term outcomes that are contrary to goals of social and racial justice (2010). ‘Successful’ conditions litigation in U.S. prisons have increased municipal spending on expanding prisons and has contributed to making prison expansion politically popular

(Guetzkow and Schoon 2015). When confronted with overcrowding litigation, state actors across the U.S. had the choice to change policy around sentencing and releases, but instead increased state spending on prison capacity (Guetzkow and Schoon 2015).

Conditions litigation has a long history of causing mass incarceration. Federal court orders throughout the 1970s prompted California lawmakers to expand and renovate its state prison system (Gilmore 2007). Litigating the treatment of people who are confined in prisons and jails requires the translation of these systemic problems into constitutional rights-based framing, which limits the ideation of the problem to “immediate dangerous conditions” instead of the “overuse” of incarceration (Schoenfeld 2010). Schoenfeld’s Florida case study, where litigation focused on the capacity of the prisons rather than an obligation to decrease the number of people incarcerated, exemplifies how a consent decree created pathways for prison-building (Schoenfeld 2010). Over a decade later, lawyers continue to litigate without meaningful involvement or consent from the communities they work with, or the people they represent (Ressler-Moyer et al. 2021).

Ressler-Moyer et. al. highlights a Sacramento County lawsuit as a recent example of a consent decree that “emboldens” county leadership to expand its jail system, using the litigation as a reason to build a bigger, “better” facility (2021). As one community organizer stated in an interview with Ressler-Moyer, “focusing on construction of new buildings has meant that there is less or no focus on what can immediately be done to improve the quality of life [of people inside], which is the goal for community, people who are incarcerated, and their families (2021, 103).” By giving the county the power to decide how to implement the consent decree, they yet again opened a pathway for state actors to expand its carceral system (Ressler-Moyer et al. 2021). The “result of narrow political and litigative strategies, like the cases in Florida and Sacramento,

is that communities endure the financial and social repercussions of litigation for decades, with no (or very limited) legal or political recourse” (Ressler-Moyer et al. 2021, 103).

Ressler-Moyer et al. argue that “no legal strategy can stand alone against oppressive structures. Without strategic engagement and planning with communities, all litigation or policy initiatives will- with certainty- perpetuate harm” (2021, 104). Undervaluing legal clients and the communities they are involved in, undermining or controlling narratives and resources, and a failure to collaborate with community organizers and other legal organizations are all ways that lawyers perpetuate white supremacy and racial capitalism. Moving forward, Ressler-Moyer et. al. recognize that lawyers can have a strategic role to play in movements for liberation, as they are less threatening to the power structures within oppressive systems, but the role of this legitimacy must be used strategically with impacted communities (2021). “Winning” in litigation and policy reform most often requires dangerous compromises and worthless accountability mechanisms, some of which have forever shifted California’s carceral landscapes, creating more complex power structures for abolitionist organizers (Ressler-Moyer et. al.).

One of these dangerous compromises sparked California’s Public Safety Realignment. The U.S. Supreme Court’s 2011 decision in *Brown v. Plata* upheld a three-judge panel’s order to decrease the population of California’s prisons by an estimated 46,000 people (Newman and Scott 2012). The *Brown v. Plata* decision determined that overcrowding was the primary cause of inadequate medical and mental health care inside of California’s state prison system. In order to address overcrowding, state legislatures decided that people convicted of “non-violent, non-serious, non-sexual” crimes after 2011 would serve their sentences in county jails or under county-level probation supervision, instead of at state prisons (Krisberg 2011). This new law became known as California’s Public Safety Realignment, or AB109. Numerous state funding

allocation policies followed this decision to support local jurisdictions in their new responsibilities (Krisberg 2011).

Most scholars recognize the primary goals of the Public Safety Realignment Act to be decreasing the state prison population to court mandated levels within two years, in addition to suggesting sentencing reforms, increasing services for people on parole, and decreasing recidivism (Wootton 2016). In April 2015, the state reached the goal of reducing prison populations to 135.3% capacity, about 2% below court mandated levels (Harris 2015). This was primarily due to the shift in populations to jails, in conjunction with increased “flexibility in sentencing” and expanding “alternatives to incarceration” programs at the county level (Wootton 2016). These “alternatives to incarceration” usually resulted in electronic monitoring, or e-carceration, which is one example of popular criminal justice reforms that scholars and activists warn are leading in a dangerous direction; towards more sophisticated carceral control (Schenwar and Law 2020).

### *Reform and Carceral Humanism*

The rise of anti-abolitionist criminal justice reform that strengthens the power and reach of the carceral state has allowed the carceral state to rebrand the ways in which it employs control over populations deemed exploitable by racial capitalism. Angela Davis reminds us that the prison itself was a reform—used as an alternative to capital and corporal punishment (Davis 2003). Advocates for the prison as reform argued that punishment as a public spectacle was ineffective, and should instead focus on reforming or rehabilitating individuals (Davis 2003). The rhetoric of incarceration as a place for “rehabilitation” and “treatment” has become more prevalent in recent years, and many scholars warn of the danger of any reform that implies that

prisons and jails are capable of being more than spaces of domination and control (Schenwar and Law 2020, Schept 2015, Gilmore 2007, Kaba 2021). Scholars Maya Schenwar and Victoria Law highlight the dangers of popular reforms that many prison reformers are advocating for, including the repackaging of prisons as hospitals—or “kinder, gentler” prisons (2020).

Mental health or addiction “treatment” in prisons and jails remains carceral, rooted in confinement and control as they hold people’s bodies in spaces with strict regulations, and deviance from these regulations are punished (Schenwar and Law 2020). The answer to addiction and mental health issues does not reside in the criminal legal system. National dialogue in recent years has pushed for the reopening of state institutions, psychiatric asylums, that confine people diagnosed with psychiatric and developmental disabilities while administering “treatment” after the use of these institutions decreased dramatically since the 1950s (Schenwar and Law 2020). Sustained organizing of asylum survivors exposed the rampant violence, neglect, and coercion in these psychiatric institutions (Thuma 2019, Schenwar and Law 2020). By the mid-1980s, hundreds of thousands of people classified as mentally ill were no longer institutionalized, but the criminalization of these individuals did not end, and today over half a million people in jails and prisons have been diagnosed with a serious mental illness (Schenwar and Law 2020).

Rachel Herzing recognizes the rise of “treatment jails” as a solution reflects an inability to imagine something beyond the prison industrial complex (Schenwar and Law 2020). The alternative to incarceration is not another institutional space of confinement (Schenwar and Law 2020). Law and Schenwar ask the questions, “What does it mean to create supposedly kinder, gentler forms of forced isolation and confinement? Can you force someone to be rehabilitated?”

And would real liberation include the freedom to behave in non-normative, non-sanctioned ways- ways that some might call ‘mad’?”

James Kilgore calls this repackaging of jails and prisons as treatment centers “carceral humanism” (Kilgore 2014). He explains that the “official voices of incarceration”, including politicians, corrections officials, prison guard unions and county sheriffs, are changing the discourse around prisons and jails to avoid systemic restructuring. Carceral humanism is one of these cosmetic reforms, which “recasts the jailers as caring social service providers” (Kilgore 2014). Kilgore recognizes this trend especially after California’s Realignment, where Sheriffs advocated for new jail funding by framing their goals as building more “care-providing,” or “gender-responsive”<sup>3</sup> facilities. This repackaging has become necessary for state actors because “people are latching onto the idea of mass incarceration as a systemic problem that can only be solved with a vast redirecting of resources into the communities that have been devastated by imprisonment” (Kilgore 2014).

Los Angeles County has experienced many of these “re-packaging” strategies, and in 2019, successfully stopped a \$3.5 Billion plan to build a women’s jail and a mental health jail. Through the nearly decade-long fight, organizers asked “How could health be a reason to build a jail?” (Clayton-Johnson et al. 2021). In April, authors Mark-Anthony Clayton-Johnson, Shamsher Samra, and Jerney Levenson published “Allying Public Health and Abolition: Lessons From the Campaign Against Jail Construction in Los Angeles”, explaining the importance of health professional allies in the fight against LA County’s jail expansion victories. In 2016, the Frontline Wellness Network disrupted the silence of local health professionals,

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<sup>3</sup>See Elizabeth Whalley and Colleen Hackett, 2017, “Carceral Feminisms: The Abolitionist Project and Undoing Dominant Feminisms,” *Contemporary Justice Review: Issues in Criminal, Social, and Restorative Justice* 20 (4): 456–73.

bringing together medical students, nurses, psychiatrists, emergency physicians, social workers, and others to support the claim that policing and incarceration are health crises (Clayton-Johnson et al. 2021). By writing letters, signing petitions, submitting public comments, organizing demonstrations, and meeting with county supervisors, Clayton-Johnson et al. argue that health professionals contributed to the transformation of LA County, where 8,000 fewer people were incarcerated in 2020 compared to 2012 (2021).

Clayton-Johnson et al. recognize the opportunity and responsibility that health professionals have in the fight for abolition. “Permitting this system to proceed unchallenged undermines what health professionals seek to promote: long, healthy, and meaningful lives” (Clayton-Johnson et al. 2021, 575). Urging health professionals to “listen to and participate in long-standing movements for racial and economic justice”, Clayton-Johnson et al. calls them to be vocal in local policy and budget debates on the criminal justice system, while helping to build social institutions that replace police and prisons (2021, 575). The case of Los Angeles County provides a similar comparison of the role that health professionals played in the campaign to prevent Sacramento County’s jail expansion plans.

### *Organizing for an Abolitionist Future*

“If recent history in Los Angeles is any guide, there is a lot to lose with inaction—and so much to gain in struggle” (Clayton-Johnson et al. 2021, 576). The power of grassroots abolitionist organizing has been demonstrated through the significant strides that have been made to build power in communities that have been most impacted by incarceration and the prison industrial complex (Clayton-Johnson et al. 2021, Gilmore 2007, Thuma 2019, Schept 2015). Community organizing towards abolition—a political vision of a world in which punishment and

incarceration are not the catch-all solutions to social problems—requires reimagining, willful defiance, creation of new knowledge, and an understanding of the history that has brought us to the current context.

As almost two thirds of California prisons were being built in the 1980s and 90s, Angela Davis recognizes that there was no great public outcry against the state projects. She questions why there was an “obvious level of comfort” with the rapid building of new prisons. “Most people had no idea about the immensity of this expansion”—while the state was rapidly “prisonizing” the landscape (Davis 2003, 19). Davis argues that the “previous absence of critical positions on prison expansion” has allowed for the dominant public discourse to focus on reforming the prison system, rather than abolishing it (Davis 2003, 20). As public discourse has become more critical of the expansion of prisons, however, this discourse is too often restricted to reform—reaffirming the assumption that prisons are inevitable. Davis emphasizes that decarceration strategies should be the focal point of conversations on the prison crisis. “The most immediate question today is how to *prevent the further expansion* of prison populations and how to bring as many imprisoned women and men as possible back into what prisoners call ‘the free world’” (Davis 2003, 20).

Abolitionist organizers have responded to the call to prevent further expansion of the carceral system. Californians United for a Responsible Budget (CURB) was co-founded by Ruth Wilson Gilmore in the winter of 2003 after state policy makers began discussions of closing a women’s prison in response to budget cuts.<sup>4</sup> A commission of advocates, scholars, and formerly incarcerated people formed a list of five state prisons, including one women’s prison and one prison that had just been built, that they advocated the state close and shift the investment instead

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<sup>4</sup>“History,” *Californians United for a Responsible Budget*, 2018. <https://www.curbprisonspending.org/history/>



toward a “comprehensive safety net for those coming home”.<sup>5</sup> Despite the state disregarding the recommendations, the small group of organizers grew into a statewide coalition with the common goals of decreasing the number of prisons and jails and the number of people in them while reinvesting state funding in social services that promote community safety and health. Nearly twenty years later, CURB is leading the renewed fight for state prison closure, as California plans to close two of its thirty-five state prisons by 2022.<sup>6</sup>

The founders of Decarcerate Sacramento had been organizing with CURB for many years before forming the organization in Sacramento County. CURB provided foundational knowledge, tactics, and goals that continue to guide the work of Decarcerate Sacramento. The formation of abolitionist organizations—and the abolitionist reforms that are won through their work—requires the tireless commitment of individuals fighting for change that is often deemed impossible by institutional power and outspoken opponents (Kaba 2021). The majority of Decarcerate Sacramento’s founders are women and gender non-conforming people who have been personally impacted by incarceration, and due to their lived experiences felt a deep passion and commitment to prevent the expansion of human caging in their community.

Veronica Gago explores theories of what drives change and power in international feminist movements, which can support the understanding formations of power and change in local abolitionist organizing (2020). Gago explains that “desire is not the opposite of the possible, but rather the force that drives what is perceived as possible, collectively and in each body” (2020, 16). Feminist potencia was a driving force for the collectivised struggle against the carceral expansion in Sacramento County. Gago explains that “to embrace feminist potencia is to

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<sup>5</sup>“Prison Closure Proposal,” *Californians United for a Responsible Budget*, 2004. <http://curbprisonspending.org/wp-content/uploads/2010/05/curbprisonclosureproposal.pdf>

<sup>6</sup>“The People’s Plan for Prison Closure,” *Californians United for a Responsible Budget*, 2021. <https://www.curbprisonspending.org/wp-content/uploads/2021/04/Peoples-Plan-for-Prison-Closure.pdf>

vindicate the indeterminacy of what one can do, of what we can do—to acknowledge that we do not know what we're capable of until we experience the displacement of the limits that we've been made to believe and obey" (2020, 15). To abolish prisons and jails requires the creation of a new culture that prioritizes healing and repair, preventing violence and harm, and collective responsibility (Kaba 2021). The work required to accomplish this has and will depend on desire as a force of reimagining the possible, and embracing feminist potencia to displace the limits of what communities perceive as possible.

Building from Gago's theories of power shifting, the concept of *willful defiance*—which Savannah Shange introduces and uses to trace the subversion of carceral progressivism in the 'progressive dystopia' of San Francisco—can further the analysis of the abolitionist organizing that has taken place in Sacramento (2019). "Like the Cali proverb, "fuck tha police", willful defiance is an abolitionist ethos that privileges the necessary over the possible" (Shange 2019, 16). By repurposing institutional language, she explains that willful defiance is a practice of Black refusal that rejects the political and challenges the legitimacy of the state and its effects (Shange 2019). Souring the legitimizing function of "civil disobedience", the naming of willful defiance "offers a grammar to speak a world beyond the state" (Shange 2019, 16). Black Sacramento residents practiced willful defiance throughout the struggle to reject jail expansion plans.

Examining the carceral logics that structure subjectivities of power, crime and punishment—Schept's ethnographic work reveals the political economic and cultural phenomena that gave rise to a carceral expansion project in Monroe County, Indiana. Using a framework of "carceral habitus", or "the corporal and discursive inscription or penal logics into individual and community bodies," Schept examines the local construction of knowledge to demonstrate the

capacity of carceral logics in structuring individual, community, and institutional dispositions on incarceration (Schept 2015). Drawing from Bourdieu's work on habitus—a “set of boundaries or limitations of consciousness or ability”—Schept uses a local carceral expansion project as a case study to expose how “the internalization of neoliberal responsabilization, racial constructs of criminality, and cultural embraces of punishment can explain much of the way communities come to participate in the carceral state even as they purport to resist and reject it” (Schept 2015, 10). While many Monroe County residents aligned more closely with the neoliberal logics of their county officials in justifying carceral expansion, the abolitionist organization Decarcerate Monroe County ultimately defeated the proposed “justice campus” (Schept 2015).

Schept uses local ethnographic dialogue to show the situated epistemological justification that proved necessary to maintain the necessity of a new jail and the legitimacy of the “therapeutic approach” (2015, 120). “Local politics meant that carceral expansion could be justified only through a discourse that framed it as distinct from the prison-industrial complex” which was supported through county rhetoric of carceral humanism of what Schept calls “therapeutic justice” (2015). This thesis uses a similar approach to understanding the causes of carceral expansion in Sacramento County through examining the local construction of knowledge that both fueled and stifled jail expansion. The relationship between discourse and knowledge in constructing authority and domination can support the understanding of power (Schept 2015), and can therefore support in understanding how abolitionist organizing wielded the political power necessary to stop carceral expansion in a local context.

While writings on prisons, and prison abolition, have been quite expansive over the past few decades, much less attention has been paid to county jails. Jails are unique sites of social control, with most local jail populations consisting of people who the state, and increasingly the

federal government,<sup>7</sup> has not yet proven guilty, giving local sheriff and police departments a powerful, unchecked tool. Very little scholarly work has investigated how local communities contest structures of the carceral state that are reproduced in their own cities and counties (Schept 2015, 11), which are increasingly at the site of the county jail. The following chapters contribute to the much needed examination of county-based abolitionist organizing against the growth of the carceral state.

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<sup>7</sup>Jack Norton and Jacob Kang-Brown, “If you Build It: How the Federal Government Fuels Rural Jail Expansion,” *Vera Institute of Justice*, January 2020. (“An increasing number of people detained by the federal government, however, are held in a dispersed and shifting network of locally run county jails.”)

## Research Methodology

My positionality as a community-embedded scholar-activist allows for a unique perspective that prioritizes the goals and perspectives of the community. This work “rejects the false distinction between academia and wider society in conceptualizations of valid sites of struggle and knowledge production” and offers research that is engaged collectively and politically, rather than individually.<sup>8</sup> Through my research I have reworked the artificial boundaries of scholarship and activism, rooting knowledge production in material social change.<sup>9</sup> Scholar-activism practiced through what Nagar and Geiger (2007) call ‘situated solidarities’ can be an effective strategy for producing knowledges that can actively work in the interests of community organizers and challenge hierarchies of power.

As a co-founder of Decarcerate Sacramento, I have dedicated a great deal of collective study to the causes of jail expansion in Sacramento County. Throughout our abolitionist campaigns since 2019, we have studied the county’s reasoning behind expanding its two jails to identify possible avenues for abolitionist organizing to prevent carceral expansion. This work further examines the causations of carceral expansion that my community-embedded scholarship has resourced, while tracing the community activism that confronted these causes in order to accomplish the community's collective vision.

My research methods include community-embedded participant observations, document review and policy analysis, and archival analysis of public Sacramento County Board of Supervisors meetings. For two years, I conducted over a thousand hours of feminist fieldwork<sup>10</sup>

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<sup>8</sup>Autonomous Geographies Collective, “Beyond scholar activism: making strategic practices inside and outside the neoliberal university,” 2010, *ACME: An International E-Journal for Critical Geographies* 9: 245–275.

<sup>9</sup>Paul Routledge and Kate Driscoll, “Situated Solidarities and the Practice of Scholar-activism,” 2015, *Environment and Planning D: Society and Space* volume 33, pages 391– 407. <https://doi.org/10.1177/0263775815594308>

<sup>10</sup>Richa Nagar and Susan Geiger, “Reflexivity, Positionality and Identity in Feminist Fieldwork Revisited,” 2007, *Politics and Practice in Economic Geography*, London: Sage, 267-278.

in public hearings, community-based organizing meetings, visiting and writing people in Sacramento County jails, and reviewing and analyzing legal and policy documents. In addition to ethnographic fieldnotes taken over the course of two years, I relied on recorded archives of county hearings for specific quoted dialogue of county actors and members of the public. By transcribing recorded public commentary from county hearings of particular importance to the proposed jail expansion projects—July 16th, 2019, October 22nd, 2019, November 5th, 2019, April 21st, 2020, January 26th, 2021 and March 10th, 2021. I used data from these six hearings in particular form the narratives in the following chapters that provide evidence for my finding that the formation of abolitionist knowledge through public discourse by community organizers was critical in contesting the legal, economic, and ideological sites of carceral expansion, and ultimately resulted in the successful prevention of two jail expansion projects.

In the hope of producing knowledge that can actively work in the interests of community organizers, I have identified three causes of carceral expansion in Sacramento County: (1) jail conditions litigation; (2) the role of finance capital investment from California’s Public Safety Realignment, and (3) the ideology of carceral humanism that attempts to justify carceral expansion as means for improving medical and mental health treatment. The goal of this study is to not only explain these three causes, but to create an archive of the knowledge and discourse produced by the abolitionist movement in Sacramento County in order to prevent carceral expansion.

## **I. Chapter 1. Formations of Decarcerate Sacramento and the Fight Against Carceral Expansion**

In this chapter I describe the founding of Decarcerate Sacramento (DS) and how two jail expansions were prevented within the two years following its inception—the Rio Cosumnes Correctional Center (RCCC) expansion plan and the “Correctional Health and Mental Health Services Facility” at the Sacramento County Main Jail. I discuss organizing tactics used by DS—most notably the public comment periods at the county Board of Supervisor meetings, where I examine the local construction of knowledge and discourse that shifted power by combating carceral justifications. County board meetings remained a unique space for influencing public narrative and the decision-making processes of elected officials throughout the successful cancellation of both jail expansion projects. I utilize narrative from public meetings throughout this work and the following chapters to archive and examine the public dialogue between community members and county officials.

This chapter also summarizes how local jail conditions litigation—class-action lawsuits that attempt to address profound abuses in county jails through the legal system; the role of finance capital investment from Public Safety Realignment; and the logics of carceral humanism—the repackaging of jails as possible sites of medical and mental health care, were three core drivers of the two county jails expansions. The following three chapters describe in greater detail how these legal, economic, and ideological arenas created a landscape ripe for carceral expansion in Sacramento County and by contesting these three sites, and constructing geographically specific knowledge that refuted carceral logics, community organizers were able to build the necessary power to prevent carceral expansions and open pathways for decarceration and community reinvestment in vital human services.

### *Formations of Decarcerate Sacramento*

As the sun set on a warm Friday evening in June of 2019, eleven people gathered in a Sacramento living room. With situated experiences of the local carceral system, they found themselves bonded with a collective defiance. Challenging the legitimacy of the state, their willful defiance privileged the necessary over the possible (Shange 2019). For this collective that had experienced the harms of human cages first-hand, stopping jail expansion was profoundly necessary. Rooted in abolitionist refusal and situated relationships, the group became devoted to contradicting the carceral progressivism that was fertilizing carceral expansion in Sacramento County.

Decarcerate Sacramento has shifted what was considered politically feasible in Sacramento County. The collective willful defiance that was mobilized built the political power needed to stop both jail expansion projects. Shange explains that willful defiance is an abolitionist ethos that privileges the necessary over the possible, challenging the legitimacy of the state and its effects (2019). Privileging the necessary over the possible, DS's advocacy persisted despite the dominant belief of institutional actors that the jail expansions were inevitable. The group's defiant determination was also driven by their lived experiences with incarceration, their truths, which guided them throughout their movement-building. Desire is a force that drives what is perceived as possible and has influenced formations of power and change in Sacramento County (See Gago 2020). This collective desire was the force that drove what was perceived as possible by community-members. Decarcerate Sacramento's passion, energy, and commitment to the fight was infectious. At community forums, on virtual social media campaigns, and in meetings with stakeholders, their tireless belief that their goals were possible brought hundreds of community members into the campaign. Fueled by their willful



defiance and abolitionist desire, they ultimately prevented two jail carceral expansion projects and forced the county to focus on reducing the number of people in the county's cages.

Filling an important role in Sacramento County's abolitionist ecosystem; Decarcerate Sacramento continues to hold the unique work of stopping carceral expansion, decreasing jail populations, and shifting county funding priorities toward public health and community-based systems of care. While there were existing organizations that focus on building a world without police, expanding systems of public health and affordable housing, and advocating for people who are incarcerated in Sacramento County, it seemed as though no organized group was paying attention to the looming multi-million-dollar jail expansion projects. Since its inception, the coalition has worked to build a coalition with shared values to shift narratives, naming the violent state structures of Sacramento County government, building relationships with powerful stakeholders, and providing clear and accessible tools for community to fight with. These tools included printed leaflets with facts that directly responded to county government narratives and brought attention to the antiblack racism that anchors Sacramento County's criminal legal system. While these facts were well researched, local media rarely uplifted them, leaving organizers to spread information in their own creative ways. Decarcerate Sacramento organizers were invited to local radio stations, wrote opinion pieces for the few news outlets that agreed to publish their work, befriended young filmmakers to cover what was occurring, and utilized social media as their own independent news stream.

### *Public Comment as an Organizing Tactic*

Sacramento County Board of Supervisors meetings provided a unique site for public discourse. These meetings shaped the knowledge of the local carceral system and exposed the

jail expansion plans as unexceptional to broader structures of mass incarceration. In the two minutes provided for public comment, community members approached a podium that faced five elected officials in a large chamber that holds the majority of public county discussions and decision-making.

Throughout the RCCC jail expansion fight, prior to the COVID-19 pandemic, organizers used public meetings in the Sacramento County Board chambers as a space to build the movement. In the aisles between rows of seats, and the hallways outside, community members often spent hours waiting for their brief chance to defy the neoliberal logics of carceral progressivism. Organizers used this time to have conversations with community organizers, often providing the tools necessary for the individual to feel moved and prepared to speak their truth, and combat carceral narratives. Filling the board chambers and the public comment space with critical voices was a physical display of the growing number of residents who opposed the County's plans.

The county's board meetings were a necessary site of organizing for Decarcerate Sacramento as they were the container for the decision-making on the jail expansion projects. But the purpose of mobilizing community members to the public comment periods quickly became more than just about changing the hearts and minds of elected officials. Community members collectively shifted the public discourse on the local jail system and more broadly on the act of incarceration. As community members dispelled the myths and misrepresentations of the legal, fiscal, and ideological arguments made by county actors, they centered the need for decarceration and, though not always naming it, abolition.

Public comment periods were used by community members to make visible what was intentionally made invisible. In July of 2019, the first time DS organizers made comments in

board chambers about the RCCC jail expansion, they exposed the county’s plans and the impacts it would make on their community. “I stand before you terrified. I am terrified of the current state of my community and of the directions in which you are taking us,” said Mackenzie Wilson, an organizer with the Sacramento Tenants Union, the Anti Police-Terror Project Sacramento and founding member of Decarcerate Sacramento. “I’m in awe that our county is moving towards a jail expansion when we see a need for housing and access to mental health services. Yet we’re seeing a 15% cut to all community services across the board to help with this expansion and that doesn't even take into account the upkeep of the jail once the expansion is done.” Over a dozen community members surprised the board that day, the first time any opposition to the jail expansion was made visible.

From July to October, Decarcerate Sacramento organizers gave public comment at several board meetings, met individually with four out of five county supervisors, held community forums, and built relationships with key county decision-makers and community stakeholders. Organizers continued to analyze the details of the Mays consent decree and county documents to refute carceral arguments and share information with the broader community.

### *The Rio Cosumnes Correctional Center (RCCC) Expansion Project*

The Rio Cosumnes Correctional Center (RCCC) is a rural jail site in Elk Grove, California. The previous military campus was gifted to Sacramento County in 1960, and primarily incarcerates people who have been convicted and sentenced. The RCCC expansion project began in 2014, when the county applied for bond funding from California Senate Bill 1022, one of many bills allocating new jail expansion money after Public Safety Realignment. California’s Public Safety Realignment shifted sentenced incarcerated populations to county

jails. This “Realignment” marked a moment that solidified the role of the county jail in the carceral state (Schept 2015); not only transforming the role of the county jail in the carceral system, but also, I argue, by allocating hundreds of millions in funding to expand local carceral systems.

At a climactic county board meeting in October of 2019, the first scheduled vote on the construction contract for the RCCC expansion project, county leadership defended their plan. County CFO Britt Ferguson told the Board that this project had been “mis-labeled”, implying that the RCCC jail expansion was misunderstood by organizers who had spent the past several months turning county staff’s arguments on their head. Ferguson argued that the project was

“Labeled in part as an expansion but it's really not an expansion of the jail’s capacity... There are no additional beds being added as a result of those improvements. Those improvements are all related to infrastructure and ADA improvements which will need to be done regardless. They're related to various programming space. They're related specifically to mental health, not necessarily adding beds, but providing more appropriate design of beds... and the truth is, that we’re going to need to provide those services to whoever remains in the jail.”

Exercising his political capital and his assumed expertise in the recent county lawsuit, he concluded that “if we don’t do it at the RCCC, it's going to add to the cost of what we’re going to have to do downtown”, referring to the *Mays* consent decree requirements and the planned expansion of the downtown Main Jail.

Ferguson’s comments offer a preview into the rhetorics of carceral humanism that will be unpacked further in chapter four. The political capital for the jail expansions came from the belief in carceral humanism, the therapeutic and rehabilitative capacities of the institutions themselves. The CFO’s claims were rooted in carceral logics and exemplify the unwavering advocacy of county staff in moving these projects forward, which will be examined further in the following chapters.

Due primarily to the fiscal arguments made by advocates, the county board voted originally to reduce the scope of the project. Decarcerate Sacramento organizers presented financial projections at the following hearing which reshaped the discourse on the jail plan by using the county's own fiscal logics against them. They focused on the Lease Revenue Bond (LRB) from Senate Bill 1022, which have historically provided a means to circumvent voter approval in order to streamline prison-building expansion in California (Gilmore 2007). Advocates challenged county staff's renaming of the LRB as a "grant from the state", and exposed that this bond would require a thirty year commitment to operating the RCCC jail. Organizers stressed that accepting the bond would lock the county into the ongoing fiscal cost of operating the jail, and would symbolically show no intention of their claims to decrease jail populations.

After Decarcerate Sacramento shared their fiscal analysis exposing the exponential cost of the project and hours of public testimony all echoing opposition, the RCCC expansion plan was cancelled on November 5th, 2019. Over sixty people filled the Board chambers, calling for the cancellation, and the Sacramento County Board of Supervisors decided to reject all bids for the SB1022 loan. "The way we look at it, the bids are rejected," County Executive Navdeep Gill said in a Sacramento Bee article; "There's not a project at this point, so we have to then reevaluate what our options are" (Yoon-Henricks 2019). Sacramento joined Los Angeles County, San Francisco County, and others in canceling harmful jail expansion plans and adding momentum to the national abolitionist movement (Pino 2019). While this was a powerful win for Sacramento County, organizers knew that the work was far from over- with another jail expansion on the horizon.

### *The Main Jail Expansion Project*

The Sacramento County Main Jail is located in downtown Sacramento and primarily incarcerates people who are incarcerated pre-trial and who are accused of federal crimes. The second campaign to stop the Main Jail Annex built upon the organizing that cancelled the RCCC expansion. As the second campaign began, organizers knew that the *Mays v. Sacramento* consent decree did not require a new jail building and that the plan to build a “Correctional Health and Mental Health Facility” that organizers recognized as a “Mental Health Jail” was guided by county staff’s logic of carceral humanism and recent conditions litigation. While the county leveraged the lawsuit to justify the RCCC expansion that had predated the litigation, the Main Jail annex was borne directly from conversations with judges and Plaintiff’s lawyers that sued the county. The legal actors imagined the new building as a solution to the systemic abuses that the lawsuit exposed.

Decarcerate Sacramento carried out detailed research, held virtual community forums, and created public letters and toolkits that educated and empowered residents to understand and refute the county’s arguments behind the Main Jail expansion. DS organizers produced knowledge that shifted the political landscape, exposing truths that were intentionally unmentioned by county staff as they worked to push the project forward. The organization explained that the expansion offered a false promise, that it would not remove the fundamental and urgent need for culture and policy changes inside the jail system, proven by the county’s own court-appointed consultants that exposed how jail staff had made virtually no real progress towards consent decree requirements since the consent decree had been finalized. They also argued that the new jail annex would not meet the consent decree, as the new building only planned for 100-150 new mental health beds, or just 5% of the jail population while 55% of the

jail population at the time had been diagnosed with a mental illness. The new jail annex would also not be completed until 2026, well outside the timeline of the consent decree. DS stressed that conditions needed to improve urgently, and that jail population reduction was the only possible solution. A focus on decreasing the jail populations would also allow the county to prioritize a humane budget, they argued, one that invested in community-based care instead and shifted the burden of Sheriff's Department lawsuits onto the Sheriff's budget instead of county residents.

A focus on organizing with people inside Sacramento County jails became a critical organizing tactic in the fight to prevent the Main Jail annex. While many founding members had family or had themselves been incarcerated previously, the coalition knew that it was critical to center the voices and leadership of people currently locked in Sacramento's cages. Holding their first official letter writing event in October of 2019 led to the formation of strong connections with Black women inside the Sacramento County Main Jail. The effort has grown immensely since then. One of the original inside organizers, who helped grow a network of relationships with individuals inside the jails, is now free. Organizers continue to support people inside the jails through participatory defense, mutual aid, relationship-building, and information sharing. Building relationships with people inside the jails has allowed DS members to advocate for their needs while exposing the realities of the daily abuse that incarcerated people face, which stem from the decisions and behavior of jail staff. This Inside/Outside organizing has guided the coalition in their work to improve jail conditions and to prevent the building of the second jail expansion; the new mental health jail "annex" of the downtown jail.

While the COVID-19 pandemic presented new challenges for local organizers, the new access to public comment through phone calls allowed for more impacted voices to be heard at

county board meetings. The global pandemic began just before the first major vote to award the architecture firm Nacht & Lewis a \$7.2 Million contract to start designing the new building. While other legislative bodies had already implemented virtual public comment systems by April of 2020, Sacramento County had not, forcing community members to rely only on written comment. Decarcerate Sacramento's relationships with county supervisors allowed them to request a verbal reading of written comments, which were read aloud during the meeting by the board chair. Confronting this failure to make county meetings accessible to the public, DS was the first organization that pushed for a virtual public comment system to allow for community engagement in decision-making despite the stay-at-home order.

The campaign to prevent the construction of the Main Jail annex was successful primarily due to the construction of knowledge that refuted the county's legal obligations to the Mays consent decree and confronting logics of carceral humanism. Community members contradicted the claim that the *Mays v. Sacramento* consent decree required a new jail structure by exposing that a new jail annex was not legally required to meet the *Mays* consent decree and would prove least beneficial for improving the welfare of people incarcerated in Sacramento County jails. Organizers exposed that the new building would not change the inherent culture of punishment and abuse that led to the class-action lawsuit. The reliance on rhetorics of carceral humanism by county actors throughout the campaign suggests the carceral state's adaptability to move beyond punishment and implicates the complicity of the phenomenon in steadying, rather than destabilizing the carceral state (Schept 2017). Ideologies that promote more therapeutic jail environments as possible and necessary for improving jail conditions legitimize the role of jails in communities, and Decarcerate Sacramento's work throughout their campaigns directly contradicted this.



## II. Chapter 2. Jail Conditions Litigation: The *Mays v. Sacramento* Lawsuit

This chapter will describe how jail conditions litigation, and legal actors more broadly, became a driver of carceral expansion in Sacramento County. I describe the *Mays v. Sacramento* lawsuit, class-action litigation prompted by an investigation of the jail conditions in Sacramento County, and how this litigation was leveraged by institutional actors such as elected officials, County executives, local Grand Juries, and County Counsel lawyers to advocate for the two carceral expansion projects. I also explain how the *Mays et al. v. Sacramento County* Plaintiff's Counsel lawyers' failure to consider the impact of their litigation on the Sacramento community, combined with a failure to vocalize their opposition to the jail expansions publicly, played important roles in undermining the work of abolitionist organizers. Throughout this chapter, I also illuminate the strategic leadership of a Black movement lawyer who utilized her institutional legitimacy to combat power imbalances and confront the collusion of county staff, which was invaluable in Decarcerate Sacramento's victories.

One of the largest drivers of both jail expansion projects was the *Mays v. Sacramento* lawsuit. This litigation arose from the disturbing culture of disposability and dehumanization inside Sacramento County jails that lawyers framed as medical neglect, human rights violations, and mental health abuses. While this conditions litigation emerged after the SB1022 project had already begun, it offered a perfect scapegoat for county officials to justify its need. The *Mays* lawsuit consent decree also sparked the proposal for a new "annex" at the Sacramento County Main Jail, becoming a powerful driver of carceral expansion, even while strongly recommending a significant decrease in jail populations to facilitate better treatment of people incarcerated. Drawing from the work of public scholar, movement lawyer, and Decarcerate Sacramento co-founder, Tifanei Ressler-Moyer (et al.), this chapter shows how the *Mays v. Sacramento* lawsuit,

following the legacies of state-level conditions litigation, “emboldened” county leadership to expand its jail system, and how organizers addressed this site of carceral expansion (2021).

Many scholars have explored the impacts of prison overcrowding and conditions litigation, but have too often overlooked the impact of such litigation on county jails. Conditions litigation, or the use of legal rights to address abuses inside jails and prisons, has a long history of causing increasing municipal spending on prison and jail capacity and making carceral expansion politically popular (Gilmore 2007, Schoenfeld 2010, Guetzkow and Schoon 2015) While improving the immediate conditions of jails is critical in saving the lives of those deemed disposable by racial capitalism, using legal means as a solution has had significant consequences. By recognizing that law, and the enforcement of law, is not possible without the threat of force, we can then understand that jails and prisons will always be violent places. This is not to say that basic standards of conditions can never be achieved inside jails, but attempting to do so through law presents a wealth of contradictions, and focusing on the possibility of improving the conditions of cages is not rooted in abolitionist values that Decarcerate Sacramento was founded on.

When confronted with conditions litigation, scholarship has shown that the strategies employed by government officials have overwhelmingly chosen to increase spending on incarceration when other, more humane and cost-effective solutions existed (. The historic *Brown v. Plata* conditions lawsuit at the state-level has sparked the expansion of county jail systems throughout California, including Sacramento County. Prison and jail conditions lawsuits have served as a means for local officials to justify expanding their carceral systems, arguing that they are unable to safely care for people inside their jails because their buildings need a multi-million-dollar update. But as the *Mays* lawsuit makes clear, the Sheriff, Correctional Health, and

Psychiatric staff and leadership are responsible for the unlivable conditions inside Sacramento County jails.

Federal conditions litigation in Sacramento County dates back as far as 1993, when the county was sued over “conditions adversely affecting pretrial inmates”, leading to a federal consent decree focused on care and treatment inside the jails.<sup>11</sup> In 1998, a modification to this consent decree was approved which increased the Main Jail population cap from 2,000 to 2,432.<sup>12</sup> This particular consent decree was utilized by legal bodies to influence the Rio Cosumnes Correctional Center jail expansion plan.

A 2009 Grand Jury report noted that the Sacramento County Main Jail (SCMJ) was “operating under a legal consent decree to limit overcrowding to achieve a safer environment for staff, as well as inmates housed there” and that the “RCCC, with its antiquated design, houses approximately the same number of inmates as SCMJ, but has no such limitation on inmate population”.<sup>13</sup> While Decarcerate Sacramento organizers were not aware of this particular argument for the RCCC expansion during the fight to cancel the plan, it would become clear that the local Grand Jury had a continued vested interest in the completion of the RCCC jail expansion.

The report continued to ask “what shocking events at RCCC will it take to get the attention of those responsible for prioritizing budgeting for safety of employees and the inmate population placed in their care”, implying that the RCCC expansion was the only way to address the horrendous culture of the jail. The Grand Jury’s logic, that more space would make the jail

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<sup>11</sup>Lee Dean, “Sacramento County Sheriff’s Department Operations Audit,” *Office of the Inspector General*, 2009, 3. [https://inspectorgeneral.saccounty.net/Documents/sac\\_021811.pdf](https://inspectorgeneral.saccounty.net/Documents/sac_021811.pdf).

<sup>12</sup>Ibid.

<sup>13</sup>Sacramento County Grand Jury, “Rio Cosumnes Correctional Center,” *Sacramento Superior Court*, 2014. <https://www.saccourt.ca.gov/grand-jury/docs/reports/09-10/report-7-rio-cosumnes-correctional-center.pdf>

safer, with no mention of policy or culture changes needed, reverberated throughout county official's decision-making in response to conditions litigation. County leadership utilized the 1993 consent decree as a tool for carceral expansion, and years later, after seemingly little change in jail conditions, was presented with yet another opportunity to co-opt legal action for the purposes of carceral expansion.

In 2016, the *Mays v. County of Sacramento* lawsuit began with an investigation of Sacramento County's jails by Disability Rights California (DRC), the Prison Law Office (PLO), and Cooley LLC. To bring attention to the causes of the class-action lawsuit, Decarcerate Sacramento shared the stories of the six lead plaintiffs on the *Mays* case early on in their campaign, writing on social media in September of 2019; "We want to highlight the human suffering happening in our jails, because this is what is at stake in our campaign. Sacramento County recently faced a class action lawsuit because of its inhumane & dangerous conditions that violate the Americans with Disabilities Act & United States Constitution. Six individuals with disabilities bravely shared their experiences in Sac County's jails and agreed to represent the class of prisoners in the case." By highlighting individual stories from inside the jails, organizers connected personal experiences to political action.

Lorenzo Mays, diagnosed with significant mental illness and an intellectual disability, was forced to stay in the Sacramento County jail system for eight years awaiting trial, having been repeatedly found incompetent to stand trial. Most of his days were filled with the torture of long-term solitary confinement. Permitted just a few hours out of his cell per week, he experienced auditory hallucinations, deepened depression, severe anxiety, and even suicidal thoughts (*Mays v. Sacramento*). Lorenzo Mays remains incarcerated in the Sacramento County

jail system to this day awaiting trial, with no option for bail, no court dates scheduled, and no projected release date.

Jennifer Bothun arrived at Sacramento County Jail with advanced cataracts, a condition that can cause total blindness if not treated. She had not received adequate medical care and experienced complete loss of vision in her right eye, dizziness, and constant pain. Jennifer had significant mental health needs and spent several months in “total separation” solitary confinement at the jail while she waited for her trial. “I won’t be the same person when I get out” she said (*Mays v. Sacramento*).

Armani Lee, a person diagnosed with bipolar disorder with a history of suicide attempts, arrived at the Main Jail with a fractured pelvis and other significant injuries. On one occasion, he was placed in disciplinary isolation where he was not permitted to leave his cell for weeks, not even to shower. The jail also placed magnetic flaps over his tiny cell window, increasing his isolation and sensory deprivation. As a result, he experienced severe anxiety, depression, and suicidal thoughts. It was clear to organizers that the structure of the jail was not the primary cause of Armani’s suffering; it was the choices made by Jail staff that needed to be urgently addressed.

Ricky Richardson lives with paraplegia and uses a wheelchair for mobility. When attempting to shower in the downtown jail, Ricky tumbled out of an unstable shower chair onto the floor. Without assistance, Ricky had to drag himself across the filthy shower floor. He then proceeded to shower with his entire wheelchair to avoid another dehumanizing fall. According to Ricky, the most humiliating experience of being incarcerated in the jail is the restrictiveness of the medical unit, with no access to recreation or physical activity, Ricky developed symptoms of diabetes and depression throughout his incarceration in the Sacramento County Main Jail.

Leertese Beirge has a history of severe mental illness and spent seven months in solitary confinement at the Main Jail while awaiting a bed in a state hospital. With no human contact and virtually complete isolation, he battled thoughts of self-harm on multiple occasions and eventually attempted suicide. As a result, jail staff stripped him of his clothes and forced him to sleep on the cold floor of either a barren safety cell or an empty classroom.

The final plaintiff in the *Mays v. Sacramento* lawsuit was Cody Garland, who lives with glaucoma and a condition that puts him at risk of severe allergic reactions. He did not receive timely care when allergic reactions occurred during his incarceration and required many emergency room visits. During one traumatic incident, Cody endured a reaction for hours without treatment. His throat started to close, and his skin was in “excruciating” distress, so itchy that he scratched until he bled. When he was finally sent to the ER, he required inpatient treatment in the hospital for more than a month. Cody also lives with mental illness and jail staff placed him on restrictive housing for five months, where he eventually attempted suicide, recalling that he “just could not take it anymore”.

On each virtual flyer describing these six stories, Decarcerate Sacramento proclaimed “A proven track record of trauma demands a new plan”. The organization centered these stories and others in their advocacy to explain how unreasonable it is to expect that a new jail annex would remediate the sheriff department’s systemic failures to provide for the basic rights of people with disabilities and mental illness. The consent decree details the changes needed in intake procedures, out-of-cell time, use of force policies, effective communication and documentation, organizational structure, record-keeping, clinical practices, and access to care. These include things as basic as requiring mental health staff to “develop and maintain at each jail facility an accurate case list of all prisoners requiring mental health treatment services”, and many other

relatively straight-forward practices that expose that the incompetence of the current jail system have very little to do with the structure of the jail buildings (*Mays v. Sacramento*).

When Decarcerate Sacramento began advocating publicly at county board meetings, the *Mays* class-action lawsuit was named by county staff as the primary reason why the RCCC expansion was necessary. But organizers were quick to expose that the RCCC project began in 2014, two years before the county's jails were investigated by the law firms, and four years before the final consent decree. In response to Supervisor Sue Frost at the October hearing, CFO Britt Ferguson stressed that if the project "does not go forward, it is likely that we will need to address it otherwise", referring to the medical and mental health requirements of the consent decree that he argued would be addressed in the plan to build a new medical intake unit and other structural adjustments. Supervisor Nottoli, consistently asking critical questions throughout the jail expansion discussions, eventually argued that "the consent decree didn't bind us to have to do this", after months of vocal advocacy from community experts. This realization, combined with the fiscal arguments against the plan and growing community opposition, led the Board to reject all bids for the RCCC project.

In the months following the successful cancellation of the RCCC project, the CEO and his staff, with support from Sheriff Scott Jones, pressured the Board to reverse their decision.<sup>14</sup>

The Board was presented with another Grand Jury report in September of 2020, just a few

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<sup>14</sup>While the county CFO was most often presenting on the jail expansion plans, it became clear that County Executive Officer (CEO) Navdeep Gill, Ferguson's direct supervisor, was a core driver of the jail expansion projects. The CEO was actively inhibiting community engagement, and consistently presenting inaccurate information to the board. Rumors of Gill's close friendship with Sheriff Scott Jones became more believable as he continued to use his executive powers to manipulate the Board of Supervisors in public hearings, presenting only parts of the truth around the requirements of the lawsuit and ignoring board directives. Gill and his staff prioritized increased funding for the Sheriff's Department, and likely used political leverage to invoke a Grand Jury investigation of the RCCC expansion cancellation, a decision he and the Sheriff were likely opposed to.

months after organizers stopped the RCCC expansion project.<sup>15</sup> “The grand jury’s report is misleading, or perhaps it was misled. Critical facts, especially about how the county can and should meet the consent decree, were conveniently left out” (Blum 2020). The report recommended that the county “reconsider” its decision to reject the SB1022 “grant”, with a letter of support from Sheriff Scott Jones stating “without new capital improvement to RCCC, the County of Sacramento will be unable to meet the expectations set forth in the *Mays* Consent Decree.”<sup>16</sup> The Sheriff’s claim to be “unable” to improve jail conditions without the jail expansion threatens his independent elected power in inhibiting the county’s goals and legal mandates to provide basic standards of care for people incarcerated in his jails.

The Sheriff continued, writing “The [Grand Jury] report included findings and recommendations based on the Grand Jury’s investigation into the County of Sacramento’s *reluctance* to accept the \$80 million in related funding from SB1022.”<sup>17</sup> The Sheriff’s choice to use the word “reluctance” reveals his desire to rewrite history and erase the powerful grassroots organizing that occurred in order to prevent a jail expansion project that he had planned for. Organizers, filled with rage at the possibility that the Board would reverse their decision, asked “why would the Board of Supervisors revisit this costly project already proven to fail by dozens of medical professionals, data experts and community advocates through last year’s testimony? Maybe instead we should be asking how this issue snuck its way in front of supervisors again on Sept. 1.”(Blum 2020). In County CEO Nav Gill’s response to the grand jury report, entitled “California Senate Bill 1022: A Gift Too Good to Ignore”, Gill urged the Board of Supervisors

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<sup>15</sup> Sacramento County Grand Jury, “California Senate Bill 1022: A Gift Too Good to Ignore,” Sacramento Superior Court, 2020. <https://www.saccourt.ca.gov/grand-jury/docs/reports/19-20/report-6-california-senate-bill-1022.pdf>

<sup>16</sup> Jones, Scott R, Letter to Judge Russell Hom, Sacramento County, 2020. <https://www.saccourt.ca.gov/grand-jury/docs/reports/19-20/response-ssd.pdf>

<sup>17</sup> Ibid.



to reconsider their decision before October 30th so they could vote again whether to accept the money before a state deadline.<sup>18</sup> But the board turned him down, after passionate public comments from Decarcerate Sacramento organizers and refusal of the Board to revisit their decision.

After the SB1022 loan was rejected by the board a second time, and the RCCC expansion project remained cancelled, County Counsel and Plaintiff's Counsel emerged as another powerful force behind the Main Jail expansion project. This new "Correctional Health and Mental Health Services Facility" plan would have added an additional building to the downtown jail. County supervisors continued to insist that litigation required the new jail building while organizers strategized and leveraged relationships of power, knowing the power of community was far greater, and far more valuable, than the power of law. One of the cofounders of Decarcerate Sacramento, who had previously been employed by Disability Rights California as a Plaintiff's lawyer on the *Mays v. Sacramento* case, held this value strongly as she organized against the interpretation of very lawsuit that she once litigated. In her previous role, Tifanei Ressler-Moyer was consistently met with resistance to involving broader impacted community members in her team's legal decisions. Ressler-Moyer used her position and experience to pressure both the Board of Supervisors and her former colleagues alongside Decarcerate Sacramento. Her presence in DS's campaigns supported the institutional credibility of the organization, and she wielded this power carefully.

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<sup>18</sup>“California Senate Bill 1022: A Gift Too Good To Ignore.” Sacramento County. 2020. <http://www2.agendanet.saccounty.net/BoardOfSupervisors/Documents/ViewDocument/ATT%203%20-%20Response%20to%20California%20Senate%20Bill%201022%20-%20A%20Gift%20Too%20Good%20to%20I.pdf?meetingId=6291&documentType=Agenda&itemId=369148&publishId=838133&isSection=false>

In particular, when the current Plaintiff's Counsel's position on jail expansion was invoked in county board meetings, Ressler-Moyer challenged the assumptions being made by county staff and supervisors. One public statement made by the Prison Law Office's Executive Director in a 2019 Sacramento Bee article, supported Decarcerate Sacramento's claims; "The Prison Law Office said the consent decree does not necessarily require Sacramento County to build or expand its jail facilities to address its lack of mental health services. Though creating a new facility is one option, 'on the other hand they could reduce the jail population significantly to allow for staff to provide care to existing facilities'" (Yoon-Henricks 2019). While this sentiment was reiterated in private meetings throughout the jail fights, the litigants chose never to speak publicly in county hearings on their positions, despite requests by Decarcerate Sacramento organizers. This proved to be a significant challenge in the campaigns.

In meetings throughout 2020 and early 2021, however, Mendelson and Fischer expressed support for Decarcerate Sacramento's efforts, naming the importance of decreasing jail populations and agreeing that a new jail building was not required to meet the Mays consent decree, but they stressed their unwillingness to express this opinion to the Board of Supervisors. Maintaining a strategic distance from the county's plans, they insisted that their role was only to provide medical advocacy and monitor consent decree violations. Their inactions around the Main Jail expansion project in particular became a major barrier for community organizers.

Neither Fischer nor Mendelson took responsibility for their lack of community engagement as they negotiated solutions to the jails' horrific conditions. They also failed to ask their "clients", which include everyone currently incarcerated inside Sacramento County jails, if they believed a new building would improve their treatment. In one meeting with Mendelson as

the new mental health jail annex planning was underway,<sup>19</sup> she insisted that her responsibility was only to the legal framework of the consent decree; not to the community that would continue to experience cuts to services as a result of this construction. She refused to make this opinion known outside of the private meeting with Decarcerate Sacramento organizers: that the building would not in fact be required to meet the legal rights required by the lawsuit. Her silence was interpreted by the board, and by County Counsel, as supporting their plan.<sup>20</sup>

When the board voted to effectively begin the Main Jail expansion project in April of 2020, it was again made clear that the *Mays v. Sacramento* consent decree was the sole driver for the project. Supervisor Kennedy asked CFO Britt Ferguson in the meeting if he thought that “the plaintiffs on the case would see, if we didn't move forward on this, a lack of commitment to the case and meeting its obligations?” Ferguson affirmed, and Supervisor Peters added that she saw “this as an important moment to demonstrate our commitment to upholding the legal settlement that we entered into” and she moved the item, which passed unanimously, entering the county into a contract with Nacht & Lewis architecture firm to design the project. Decarcerate Sacramento spent the following months meeting with abolitionist architects, and with plaintiff’s counsel themselves to understand and strategize around how to convince the county to meet the consent decree without a new building. Meeting with individual supervisors themselves, especially Supervisor Don Nottoli, proved to be the most effective way for organizers to provoke internal county skepticism of the project and to gather critical information.

While the lawsuit does require compliance with the Americans with the Disabilities Act (ADA) and the Health Insurance Portability and Accountability Act (HIPAA), there was

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<sup>19</sup>After the county had approved the architectural contract in April 2020.

<sup>20</sup>The impact of this failure—of Plaintiff’s attorneys to support and collaborate with community—supports the claims made by Ressler-Moyer et al. 2021.

overwhelming evidence, intentionally left unmentioned in public hearings, that the county did not need to build a new building to meet these minimum standards. More than a year after federal approval of the consent decree, the county had achieved substantial compliance on only 5% of medical provisions, none of the mental health provisions, and none of the suicide prevention provisions of the remedial plan.<sup>21</sup> Monitoring reports by court-appointed experts documented the County's "deeply concerning" lack of compliance with the Mays consent decree. The legal compliance issues largely involved policies, procedures, staffing, training, and staff compliance with policies. Organizers also pointed out that even if the jail annex was built, it would serve a maximum of 150 people, which is about 5% of the jail population while over 60% (1,800 people) are currently diagnosed with mental illness and in need of mental health support. There had been four "Consent Decree Compliance Reports" released since the lawsuit was finalized.<sup>22</sup> People inside the jails continued to die premature deaths due to the behavior and policies of medical and sheriff staff. All experts stressed that the Main Jail annex project would not solve the problems presented in the lawsuit. The expert reports urged that "discharge planning and continuity of treatment services will need to be a focus"<sup>23</sup> in jail mental health care, meaning that the county must invest in community-based mental health treatment to stop the cycle of mass incarceration.

At the March 2021 hearing, Tifanei Ressler-Moyer brought attention to the limitations of legal frameworks and of Plaintiff's Counsel's role in meeting the consent decree. Explicitly invoking her "expertise", she told the Board that "class-action lawsuits regarding the conditions

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<sup>21</sup>Mary Perrien, "First Report of Compliance in Mental Health Services Based on Consent Decree," *Mays et al v Sacramento County* Case No. 2:18-cv-02081-TLN-KJN, January 2021.

<sup>22</sup> See "Consent Decree Monitoring Reports" <https://www.disabilityrightsca.org/cases/mays-v-county-of-sacramento>

<sup>23</sup>Mary Perrien, "First Report of Compliance in Mental Health Services Based on Consent Decree," *Mays et al v Sacramento County* Case No. 2:18-cv-02081-TLN-KJN, January 2021.

of confinement are designed to identify the bare-minimum legal requirements of a government.” Countering the county’s focus on legal requirements, she stressed that “a court cannot force a government to create the best jail system its residents have ever heard of, cannot force a government agency to do what’s most fiscally responsible for its taxpayers, and can’t force a government to think long-term or strategically about how to meet the needs of its constituents. A court can only force basic constitutional minimums.” Ressler-Moyer’s comments carefully deconstructed the county’s logics that utilized the legal compliance as the reason for the new building. “The problem with creating a plan that only addresses the constitutional minimums is that the bare minimum constantly changes,” she continued. “Within the Main Jail, a facility that is younger than I am” she added—to refute Supervisor Kennedy’s claim that the jail was “ancient”—“when that building was designed it was in compliance with the law, but once it was constructed it was out of compliance within a single year after the ADA was enacted. History teaches us that bare-minimum legal requirements are a moving target. The bare-minimum is helpful for designing a consent decree, but it is not a sound way to design county infrastructure.” The court had granted power to the county to decide how to implement the consent decree, and county actors in Sacramento attempted to build their way to legal compliance, which has been historically ineffective and detrimental to local communities (Ressler-Moyer et. al. 2021).

Plaintiff’s Counsel was invoked again, when County Counsel insisted that they supported the expansion. County Counsel stated that if the board did not move forward with the jail annex, that they could not meet the terms of the consent decree; “without it we do not think we will reach compliance” said Lisa Travis in response to pointed questions from the board. “County counsel said that plaintiff’s counsel’s position on diverting people from the jail doesn’t align with the consent decree, which itself recommends reducing the jail population” Ressler-Moyer said

in response, addressing the board in public comment. “On behalf of Decarcerate Sacramento, I do advise and implore the board of supervisors to ask more questions on the representation [of Plaintiff’s Counsel’s perspective].”

Following public comment—in a final effort to convince the board to move forward with the project—Lisa Travis, County Counsel said that Plaintiff’s attorneys “did not call in”, and “they didn’t oppose this project... They believe this is a project that will help us get to the consent decree.” Travis stated as if it was fact that “there is certainly risk of upsetting plaintiff’s counsel, and upsetting the consent decree by not taking this action”, after at least two board members had expressed intentions of voting against staff’s recommendation for the project, that she had a meeting with them tomorrow to discuss the action the board would take that night.

In conjunction with the strategic display of political capital shown by Ressler-Moyer’s public comments as a lawyer with direct experience on the Mays case, Decarcerate Sacramento’s public education work made it clear that in order to meet the consent decree the county would have to address structural and systemic process issues by changing policies, organizational leadership structures, and accountability structures. After hours of powerful public comment at a March 2021 hearing, community members successfully pressured the Board to cancel the project and commit to urgently improving jail conditions and reducing the jail population to facilitate meeting the consent decree. The final statement made by Supervisor Nottoli made it clear that the board was aware of the legal ramifications of their decision; “We are committed to improving the conditions and doing that as quickly as we can” he said, just before the board’s final vote.

Localized jail conditions litigation in Sacramento County was a central driving force of carceral expansion, and the legacy of similar state-level lawsuits has constructed the political

economic landscape that preconditioned this possibility. The strategies that California legislatures employed to address the legal requirements of the *Brown v. Plata* case were similarly carceral. Rather than working creatively and diligently to release individuals from the California Corrections system, the state changed sentencing laws to shift incarcerated populations to county jails. The next chapter will further explore the dangerous impacts of legal action as a solution to mass incarceration, focusing on the resulting economic drivers of carceral expansion in local geographies.

### **III. Chapter 3. Budgetary Violence: Finance Capital and California's Public Safety Realignment**

While the Sacramento County jail expansion projects were both impacted by localized conditions litigation, one historic US Supreme Court lawsuit, *Brown v. Plata*, spurred a new law that laid the groundwork for overcrowding of local jail systems and avalanched jail expansion projections throughout the state. The final judgement ordered that the state of California could no longer build its way out of its prison problems; it had to do something else. That something else was Public Safety Realignment, Assembly Bill (AB) 109, which was implemented with subsequent laws that allocated hundreds of millions for local carceral expansion projects.

This chapter explores how the laws following Public Safety Realignment drastically increased the availability of capital for carceral expansion on a municipal level, which opened pathways for the financial sector to capitalize off public debt. This restructuring of municipal finance towards a reliance on public debt shifts the political accountability to creditors and away from local residents (Wang 2018). I also explain how county actors used strategic language to hide the fiscal impacts of carceral expansion. By calling the Lease Revenue Bond (LRB) a

“grant”, county executive staff concealed the reality of LRBs, which have historically been used as a political tactic created to build carceral facilities without voter approval (Gilmore 2007). Decarcerate Sacramento’s public education through community forums, social media, and informational leaflets, sparked unprecedented community outrage from the exposed economic impacts that the jail expansion proposal would cause. Through public comment periods at county hearings, community members connected the proposed bond acceptance and ongoing operational cost of the project to the threat of increased social divestment that would deepen racial disparities in Sacramento County. This local grassroots organizing was required to prevent carceral expansion in the face of newly localized threats of capital investment.

Since 1977, local carceral spending on jails has risen sixfold nationally, reaching \$25 billion in 2021.<sup>24</sup> California counties have since received billions in funding for jail expansion. Since 1981, California counties have received \$4 billion to build or expand jails, which has driven further incarceration in County jails (Kang-Brown et al. 2021). In less than fifteen years, county jail capacity increased statewide by 123 percent, from 31,824 people to over 70,000. As of January 2021, nine California counties are spending \$609 million in state money on new jail projects, while 23 counties have pending plans for jail construction, totaling \$791 million.

This rise in local jail spending is directly correlated to California’s Public Safety Realignment (AB109), which was enacted in 2011 and shifted carceral responsibilities from state prisons to county jails. More than 175,000 people were sentenced to county jails instead of state prisons in the eight years following AB109.<sup>25</sup> This “Realignment” marked a moment that

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<sup>24</sup>“Local Spending on Jails Tops \$25 Billion in Latest Nationwide Data: Costs increased despite falling crime and fewer people being admitted to jail.” *The Pew Charitable Trusts*. January 2021. [https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2021/01/local-spending-on-jails-tops-\\$25-billion-in-latest-nationwide-data](https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2021/01/local-spending-on-jails-tops-$25-billion-in-latest-nationwide-data)

<sup>25</sup>Abbie Vansickle and Manuel Vill, “The Hardest Time He Served Wasn’t in Prison,” *The Marshall Project*, April 23, 2019. <https://www.themarshallproject.org/2019/04/23/who-begs-to-go-to-prison-california-jail-inmates>



solidified the role of the county jail in the carceral state (Schept 2015), transforming what were once theoretically temporary spaces of incarceration reserved for freshly arrested individuals or those awaiting trial.

Following Realignment, each of California's 58 counties receive funding each year through the Board of State and Community Corrections, and county-level Community Corrections Partnership (CCP) Committees. Local CCP committees are composed mostly of law enforcement and are required to develop a plan for their county's state funding each year (Krisberg 2011). Sacramento County currently receives approximately \$50 Million per year in AB109/Realignment funding.<sup>26</sup> Resources that could be used to enhance reentry and prevention services, but instead have enhanced and solidified the role of local Sheriff and Probation Departments by hiring more staff to strengthen these carceral actors.<sup>27</sup>

Lin and Petersilia explain that "while the legislation directs counties to use these funds for community-based programs, counties retain a substantial amount of spending discretion" (2014). The Public Policy Institute found that at least 17 counties were already experiencing overcrowding in their jails pre-Realignment (Misczynski 2012), which was exacerbated by lack of investment in reentry and diversion programs post-Realignment (Flynn 2013).<sup>28</sup> These annual Realignment funds are unique to the wave of state funds that followed AB109, as they're highly

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<sup>26</sup>See Sacramento County Community Corrections Partnership's "Assembly Bill 109 Plan—2021 Update." May 2021. [https://saccoprobation.saccounty.net/Documents/Resources/CCP/Implementation%20Plans/ATT\\_1\\_-\\_AB\\_109\\_Plan\\_-\\_2021\\_Update.pdf.pdf](https://saccoprobation.saccounty.net/Documents/Resources/CCP/Implementation%20Plans/ATT_1_-_AB_109_Plan_-_2021_Update.pdf.pdf)

<sup>27</sup>The first AB109 funding in Sacramento County paid for the hiring of at least 37 Probation Department positions and 64 Sheriff Department positions. See "Accept the Community Corrections Partnership Plan for Public Safety Realignment," Sacramento County, 2011. [http://www2.agendanet.saccounty.net/BoardOfSupervisors/Documents/ViewDocument/2\\_15\\_P.M.\\_--\\_Accept\\_The\\_Community\\_Corrections\\_Part\\_-\\_Item\\_No.\\_33\\_-\\_Executed\\_Material.pdf?meetingId=5042&documentType=Minutes&itemId=301771&publishId=330454&isSection=false](http://www2.agendanet.saccounty.net/BoardOfSupervisors/Documents/ViewDocument/2_15_P.M._--_Accept_The_Community_Corrections_Part_-_Item_No._33_-_Executed_Material.pdf?meetingId=5042&documentType=Minutes&itemId=301771&publishId=330454&isSection=false)

<sup>28</sup>See Sacramento County Community Corrections Partnership's "FY 2012-13 Public Safety Realignment Implementation Plan", September 2012, 66. [http://www2.agendanet.saccounty.net/BoardOfSupervisors/Documents/ViewDocument/2012-13\\_AB\\_109\\_Realignment\\_Plan\\_Final.pdf?meetingId=5111&documentType=Minutes&itemId=309153&publishId=356239&isSection=false](http://www2.agendanet.saccounty.net/BoardOfSupervisors/Documents/ViewDocument/2012-13_AB_109_Realignment_Plan_Final.pdf?meetingId=5111&documentType=Minutes&itemId=309153&publishId=356239&isSection=false)

flexible and present an opportunity for investment in programs that prevent incarceration. Most Realignment-related bills became a driving force of local jail expansions.

The California legislature has passed many state bills to allocate capital investment funds to counties for carceral system expansion. Prior to Realignment, in 2007, AB900 authorized the state to borrow \$7.5 billion using Lease Revenue Bonds to build 53,000 new prison and jail beds without voter approval.<sup>29</sup> Assembly Bill 900, chaptered in two phases in 2007 and in 2011, allocated over 1 Billion in funding to build jail capacity. Senate Bill 1022 (SB1022), allocated \$500 million in state Lease Revenue Bonds (LRBs) to “design and construct new, or renovate existing, housing units, support buildings, programming space, and any necessary ancillary improvements in order to add capacity at facilities and to provide medical, dental, and mental health treatment or housing to inmates” (CA Legislature). Senate Bill 863, chaptered in 2014, allocated \$500 Million, and SB844, in 2016, earmarked over \$244 Million for local jail construction (Kang-Brown et al. 2021). These financial incentives prompted most California counties to begin jail expansion.

In a post-Realignment era, local governments were given access to seemingly endless streams of finance capital for carceral expansion. By giving agency to county governments to decide for themselves whether to take these loans for local jail construction projects, Realignment opened new fronts to the struggle for abolition. As Jackie Wang points out, local governments have gradually assumed responsibility for building the infrastructure needed to support capitalist production (2018), and Sacramento County is no exception. The uniquely localized municipal governance model in California has most recently supported interests of

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<sup>29</sup>“AB900 Borrows \$7.5 Billion to Build New Prisons: Fact Sheet on the Use of Lease Revenue Bonds to Build Prisons.” *Californians United for a Responsible Budget*. May 2008. <http://www.curbprisonspending.org/wp-content/uploads/2010/05/Fact-Sheet-on-Lease-Revenue-Bonds-Updated-May-08.pdf>

racial capitalism by enabling carceral expansion to be prioritized as a solution to capital surpluses (Gilmore 2007). In order to prevent the threat of deepening budget austerity, or as Decarcerate Sacramento often called it, budgetary violence, communities within these 58 municipalities required local, organized opposition to jail expansion.

Sacramento County was originally allocated a \$56.4 Million Lease Revenue Bond from Senate Bill 1022 funding in 2014.<sup>30</sup>The Board of State and Community Corrections (BSCC) eventually increased the RCCC expansion project's LRB to \$80 Million, requiring a matching investment of approximately \$9 Million, which the county quickly spent on architectural design. After years of negotiating with the BSCC and planning with the Sheriff's Department and other carceral stakeholders, the county moved forward with the competitive bid process for an \$89 million dollar jail expansion project for its jail campus in Elk Grove, the Rio Cosumnes Correctional Center (RCCC).

Lease Revenue Bonds (LRBs) are one of the most expensive loans for counties to receive. As high risk financial instruments, it's estimated that LRBs cost about twice the face value of the original bond, ultimately costing much more than traditional General Obligation Bonds.<sup>31</sup> Unlike projects like bridges where the lessee can generate revenues from the operation of the facility to finance the debt, the RCCC jail expansion would have incentivized Sacramento County to allocate more funding to the Sheriff for ongoing operating costs created by new buildings and more staff. Wang explains that this model of public finance, which increasingly

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<sup>30</sup>“Sheriff to Receive Funds for Correction Center,” *SacCounty News*, January 2014.

<https://www.saccounty.net/news/latest-news/Pages/Sheriff-to-Receive-Funds-for-Correction-Center-.aspx>

<sup>31</sup>“AB900 Borrows \$7.5 Billion to Build New Prisons: Fact Sheet on the Use of Lease Revenue Bonds to Build Prisons,” *Californians United for a Responsible Budget*, May 2008. <http://www.curbprisonspending.org/wp-content/uploads/2010/05/Fact-Sheet-on-Lease-Revenue-Bonds-Updated-May-08.pdf>

relies on borrowing rather than taxation, “creates a situation where creditors, rather than the public, become the privileged constituency of governments” (Wang 2018, 71).

Used primarily as a political-economic tactic for prison and jail construction, Lease Revenue Bonds allow governments to expedite major construction projects by removing the requirement of voter-approval. Decarcerate Sacramento organizers educated the community on LRBs through educational media—prompting strong collective abolitionist refusal. These bonds were used by the state legislature to fund California’s rapid prison-building project, presenting a solution to fast-track loan approvals by circumventing community opposition (Gilmore 2007). It was clear to organizers that the same tactic was being attempted by county executive staff as they continuously called the LRB a “grant”, that would lock the county into operating the jail for at least 30 years without input or approval of community residents. The financing of carceral construction projects functions as a way to capture surplus for the ruling class while exploiting local austerity policies as a means to transfer public money into the private sector (Gilmore 2007).

In a county that operated under increasing austerity, continually prioritizing carceral spending over public health,<sup>32</sup> the Lease Revenue Bond incentivized incarceration. At the first major discussion on the RCCC expansion plan, after months of community advocacy, the Director of General Services, Jeff Gasaway began by saying “it’s important to mention that the \$80 Million is a *grant* from the state and we’ve already invested a significant amount in this project.” Decarcerate Sacramento circulated an informational flyer at the meeting, detailing how building and operating jails funnels public money into the hands of the wealthy. It highlighted how LRBs are sold on the financial markets to private investors, banks, and financial institutions

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<sup>32</sup>See Jason Pohl and Alexandra Yoon-Hendricks, “Sacramento County Public Health Lab Faced Years of Budget Cuts. Then Came the COVID-19 Pandemic,” *The Sacramento Bee*, April 2020.

and that all of the interest, paid through the operation of the jail, becomes accumulated wealth for investors. “The proposed RCCC expansion financially incentivizes incarceration. The only resolution that meets the County’s stated goal of decarceration is just that – real decarceration. That means no new jails. That means no expansions. That means funding community alternatives to police and prisons.”<sup>33</sup> The financial commitment to the SB1022 LRB, which was needed to move forward with the jail expansion project, would have required the county to operate the jail for at least thirty years, therefore incentivizing the continued policing and incarceration of primarily Black and Brown Sacramento County residents.<sup>34</sup>

At the Board of Supervisors meeting in October of 2019, the sole voice of support for the project during public comment came from the “lowest responsible bidder” for the RCCC expansion. Robert Kjome, an executive from Roebbelen Contracting, boasted of his company’s trusted specialization in corrections construction. Kjome stated that Sacramento County should “rest assured” that they will do the work “at a great price”—words that leave out the impact of his proposed work, the experiences of people who would be incarcerated in Sacramento County, left with generational trauma and continued defunding of vital human services.

Following public comment, Supervisor Don Nottoli said “I’m tired of chasing the dollars. We’ve expended \$8 Million and we’re going to commit to 5.5-6 Million annually for 30 years, each year... I’m not willing to chase the \$80 Million dollars anymore.” After which, the two Democrats on the board echoed their hesitancy with the ongoing cost of the project. Supervisor Kennedy stressed that he thought “this is a gift from the state we can’t afford” in response to the CEO’s attempts to convince the board that this project was fiscally responsible and necessary in

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<sup>33</sup>Decarcerate Sacramento statement “Jail Expansion: All About the \$\$\$” released October 22nd, 2019.

<sup>34</sup>The Sacramento County jail population is consistently 37% Black, while the population of Black people in Sacramento County is just under 11%.

light of the recent consent decree. “It’s not free money, and it’s not going to come without strings,” Supervisor Nottoli concluded at the October meeting.

The Board revisited the decision to move forward on the RCCC expansion with a reduced scope to approximately \$62 Million, instead of \$89 Million. Decarcerate Sacramento realized that their fiscal arguments were most impactful with Board members’ opinions of the project, and further focused their advocacy at the following Board meeting towards the fiscal violence of the SB1022 Lease Revenue Bond funding. The board allowed a representative from Decarcerate Sacramento to present a brief presentation at the start of public comment, allowing them to show visuals and explain their opposition in more depth. They began by showing graphs of the drastic disparities in Sacramento County department funding (Figure 1) and the exponential cost of the SB1022 Lease Revenue Bond (Figure 2).

“The County Executive has yet again submitted a recommendation to the Board that does not show this expansion is good for Sacramento County. The lease revenue bond *does not* lessen the burden from the lawsuit, it costs an astronomical amount in the long term, and it gambles against the county’s own interest in reducing the jail population” the speaker began. Figure 1 was then projected in the board chambers, which displayed the percent of total net county costs associated with the Sheriff’s Department versus the Regional Parks, Health and Human Services, and Human Assistance Departments annually. “The Sacramento Sheriff’s department alone makes up about 37% of the net county cost in this year’s proposed budget. That is up about 8% from last year, and makes it by far the most resourced county department, and the fastest growing expense. The second and third most costly are the Probation Department and the Office of the District Attorney, each of which make up about 8% of county costs. There are 50 other departments that share the remaining 47% of the net county cost in this year’s budget plan.” The

focus on the distribution of county resources was intentional, illuminating the historic budgetary violence that has prioritized policing over public health.

The Decarcerate Sacramento organizer continued to stress the economic impacts of county staff's recommendation to accept the bond funding for jail expansion; "Our concern is that SB1022 costs far more than it is worth, so why is the county executive more concerned about the costs of the lawsuit in this recommendation. This is not an honest representation of the risk of long term costs." Figure 2 was then projected, showing through a bar graph that if the county had moved forward with the project, it would be committing to pay back a total of approximately \$124 Million, more than double the proposed loan, without accounting for the added operational costs of the jail expansion. This visual brought attention to the fact that this project would cost the county exponentially more every year, due to increased staffing obligations, which alone make up 85% of the annual costs of operating RCCC. In addition to costing the County over \$547 million pre-inflation, the project would have added an average of \$18 Million to the Sheriff's annual budget to cover debt payments, interest, and operating costs for 30 years.

Throughout the many hours of public comment that continued into the evening, community members provided impactful analysis and personal experiences that exposed the violence behind the proposed project. Kirin Rajagopalan, a graduate student and organizer with Critical Resistance, stated that "this \$500M jail expansion project, regardless of its rebid, is a simplistic, violent and counter-productive way of addressing complex issues of houselessness, mental health and poverty which will further exacerbate the stark material, racial, and economic disparities in this county for decades to come." Kyle Kim, a local medical student, added that "when we look at the \$500 Million dollars over the next 30 years, that's quite a gamble with

money.” Kahlil Ferguson, a scholar and CEO and United CORE Alliance, echoed that “the argument that the county will avoid incurring costs from the lawsuit is negated by the fact that the county will not avoid occurring costs from SB1022,” adding that “the motive for this jail expansion is not to deal with individuals within a carceral system but more the colonial state using its incentive to generate profit for private corporations.” Community members like Ferguson further exposed the realities of Lease Revenue Bonds and called for the rejection of the fiscally violent proposal rooted in racial capitalism.

The economic impacts of this proposal could not be separated from the budget cuts that communities across the county were facing in 2019. Jay Franco, an organizer with Sac Kids First, noted that he had just come from a city council meeting and brought to light that “tonight there are schools proposed to be closed, and jails proposed to be expanded.” He asked, “What type of world do we bring youth in where the jail system is the largest public housing facility in the county?” Dozens of public commenters stressed the need to invest in community services instead of investing in jails.

As Gilmore explains, the failure to develop a plan for true public health and safety is what allowed for private capital to fuel California’s prison-building era (2007). Similarly, the lack of a proactive plan to reduce jailing is what led to Sacramento County’s plan to expand its jail system by hundreds of millions of dollars.<sup>35</sup> The hundreds of hours of county staff time utilized to plan the RCCC jail expansion project over the course of at least five years could have been used to create and implement community development plans that centered racial, economic, and climate justice. Additionally, the absence of a measurable and effective county-

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<sup>35</sup>See David M. Bennett and Donna Lattin, “Jail Capacity Planning Guide: A Systems Approach,” *U.S. Department of Justice, Office of Justice Programs, 2009*. (Which advocates for a “results-based paradigm for jail planning” and challenges “common faulty arguments for jail expansion based on inadequate analysis and/or weak premises).



wide plan to sustainably decrease jail populations left an opening for private capital to invest in its own plan, made possible by Realignment funding and the lack of action of local governments like Sacramento County. Without tangible commitments to shift reliance on policing and incarceration, the county's actions became driven by private capital investing in local municipal bonds for jail expansion.

Sacramento County is one of only four counties to abandon plans for new jails, relinquishing a total of \$212 million in state jail construction funding since the start of the COVID-19 pandemic (Kang-Brown et al. 2021). When counties throughout California rejected Realignment jail construction funding, the capital returned to the state and deepened the available funding for other counties. While the Lease Revenue Bond from SB1022 was rejected by Sacramento County, this funding continues to be used for jail expansions in counties throughout California.

This chapter shows how California's Public Safety Realignment opened a new front to the movement for abolition—financially incentivizing carceral expansion. By shifting the capital investment opportunities from state prisons to county jails, the prevention of carceral expansion projects required grassroots abolitionist organizing on the local level. Decarcerate Sacramento's community organizing was a catalyst for public commenters' connection of the proposed bond acceptance and ongoing operational cost of the project to the threat of increased social divestment that would deepen racial disparities in Sacramento County. This local grassroots organizing was required in the face of newly localized threats of capital investment in carceral expansion, making possible the rejection of the RCCC expansion project and the collective abolitionist refusal that continued.

While this chapter focused on the economics of jail expansion, county officials also invoked logics of carceral humanism to justify the RCCC expansion throughout the campaign. Organizers stressed that this jail plan was fiscally irresponsible—the Lease Revenue Bond would have furthered the budgetary violence of prioritizing jail funding over community-based services. But community members also uplifted the human costs of incarceration throughout the campaign. The construction of a local abolitionist discourse to combat the county’s rhetoric of carceral humanism was also critical in preventing the RCCC project—and became even more significant in the second campaign to stop the Main Jail expansion.

#### **IV. Chapter 4. Carceral Humanism and A “Mental Health Jail”**

Rallying cries of “Can’t Get Well in a Cell” and “Care, Not Cages” echoed throughout the campaigns to stop both jail expansions. These calls to action and truth respond to the prevalent ideology of carceral humanism—the ideological repackaging of incarceration as a way to provide social services and medical care (Kilgore 2015). Carceral humanism has been central to the formation of carceral expansion projects in Sacramento County. This section explores the logics and rhetorics employed by county actors and community organizers that either upheld or refuted ideologies of carceral humanism. I highlight how the public discourse that opposed logics of carceral humanism during the RCCC jail expansion campaign laid important foundations for the following political campaign against the Main Jail expansion. I also explain how prioritizing efforts to organize with people inside Sacramento County jails was central not only to the successful prevention of carceral expansion, but expanded the work of Decarcerate Sacramento beyond the goal of stopping jail expansion and toward prioritizing the voices and needs of people

inside the jails. This work was further impacted by the COVID-19 pandemic, changing the way the community was able to engage with public meetings, and deepening the need for mutual aid inside the jails.<sup>36</sup>

This chapter provides a detailed account of how carceral humanism showed up throughout the efforts to stop two jail expansions in Sacramento County. From the critical role of medical professionals providing their expertise and the centering of the first-hand experiences of people who experienced incarceration in the county jails, to the carefully researched arguments created by Decarcerate Sacramento to refute the county’s claims—the voices in this section tell a story of how public narrative shifted the discourse on incarceration. By refuting narratives of carceral humanism through abolitionist logics, organizers proved that a new building would not address the vast majority of the *Mays* consent decree requirements, and was not a solution to improving the treatment of people inside the jails.

Throughout public discussion on the jail expansions, Sacramento County actors often focused on how jail expansion projects would enable a broader commitment to programming inside the jails. The first questions asked by the Board chair, Supervisor Patrick Kennedy to county staff, at the October 2019 Board of Supervisors meeting on the RCCC Expansion plan was “Does this project add one more inmate to our jail population?” and “Will the result of this serve inmates who are already incarcerated who have mental health problems better than they are already being served?”. The insistence that the project would not expand bed space, but would expand “services” for people inside was the County’s central argument for jail expansion. The logic employed by Supervisor Kennedy’s questions also shows the credibility allotted to the

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<sup>36</sup>Decarcerate Sacramento provided monthly mutual aid funds to a network of individuals inside the Sacramento County Jails starting in April of 2020 and have continued throughout the COVID-19 pandemic. See Sam Stanton, “COVID-19 Cases Inside Sacramento County Jails Continue to Skyrocket. What’s to Blame?” 2021.

county's Chief Fiscal Officer, Britt Ferguson, while community members pushed to redefine which voices are considered legitimate "experts".

Included in the planned renovations for the RCCC expansion were what the county called "Safety Cells" for "patients presenting with acute psychiatric symptoms" (See Figure 3). These "Safety Cells" are windowless concrete boxes with holes in the floor, and the *Mays v. Sacramento* consent decree explicitly advised the county to stop using them. The consent decree stated that "while these individuals are held in isolation, Defendant [Sacramento County] deprives them of human contact, programming, fresh air, and sunlight. Many people do not get outside to see the sun for weeks or months at a time. The extreme isolation and deprivation place people at serious risk of profound physical and psychological harm." Safety cells have no beds, mattresses, toilets, or sinks, and are "ill-equipped to house anyone on an extended basis", let alone a person who is actively suicidal, which is what they were intended to be used for. One woman on suicide watch in a classroom was prohibited from leaving the room to use the bathroom, and was told by custody staff to "piss in the drain" in the floor (*Mays v. Sacramento*). The county's plan would have expanded the use of solitary confinement by building additional "safety cells", which was in direct contradiction to the consent decree they insisted they were trying to meet.

Invoking their institutional credibility, health professionals played a critical role in refuting the county's claims that this project would improve jail conditions. One medical student brought attention to the alleged mental health services that the county claimed would be provided in the RCCC jail expansion, saying "instead of being provided services they are being provided with solitary confinement... which is not actually a mental health service I could find in any textbook." One public commenter noticed this power dynamic, saying in genially "I'm no doctor

but let's lock up each one of you in solitary confinement for 23 hours a day, just for a week, and you can tell me what effect that has on your mental health. I bet you'll come out with a thousand page report with things that'll work better than that.” The respect and attention that the Board of Supervisors granted medical professionals was recognized by community, and while they leveraged their positions to move public discourse, organizers stayed principled in their commitment to center the expertise of incarcerated and previously incarcerated people.

As county officials continued to conflate their reasoning behind the RCCC expansion with the requirements of the *Mays* consent decree, community members who had themselves been caged in the jails explained that the problems were unsolvable by renovation projects. “This was people doing this to people” said Mackenzie Wilson in a public comment, referring to the behavior of jail staff as the primary cause of the abusive conditions addressed in the *Mays* lawsuit. Another public commenter, Monica Ruelas-Mares, who mentioned she had a loved one inside the county jail, echoed the true causes of mistreatment inside the jails; “We are talking to the people inside of the facilities and they're telling us that they're not being treated as humans. It's important for us to be here representing them as they obviously cannot be here representing themselves.” Voices of those who had loved ones incarcerated and who had been incarcerated themselves, recentered the narrative on the expertise of people who are impacted by Sacramento County’s jail system through their lived experiences.

In addition to the experiences of those who had been incarcerated in the jails and their loved ones, health professionals who had worked inside the County jails also played a critical role in refuting narratives of carceral humanism. MK Orsulak, a primary care physician, stressed “this jail expansion will not, in no way, lead to ethical medicine. There is no way ethical medicine can be practiced in what is being proposed right now.” Asantewaa Boykin, co-founder

of the Anti Police-Terror Project and Registered Nurse explained to the Board that “hand-cuffs are not therapeutic. Forced compliance does not equal wellness.” She added that as an RN she has “seen compassion and resources be more effective than some medications. 60% of people murdered by police are in the midst of a mental health crisis. [We need] more social workers in our ERs, in our schools, and less police.” Public testimony from doctors and nurses who had worked with incarcerated populations provided direct contradiction to county staff’s claims.

After the cancellation of the RCCC jail expansion, which directly prevented more solitary confinement cells from being built at the rural facility, Decarcerate Sacramento directed their efforts towards building strong relationships with people who were currently incarcerated in Sacramento County jails in the face of the second jail expansion planned for the downtown jail. Connected through a public letter writing event, organizers met with two Black women, who built an inside network of people who were incarcerated in the Main Jail’s 7th floor West wing. As the county transitioned their focus towards building a Mental Health Jail Annex next door to the downtown jail, organizers were continuing to build power from inside. These women, who won’t be named for their safety, built a network of individuals inside; building relationships, gathering information, and sharing stories about the lived experience of being incarcerated in Sacramento County jails.

Centering the needs and experiences of people inside the jails guided the campaign to stop the Main Jail expansion plan, as currently incarcerated people continued to experience mistreatment caused by the behavior and protocols of jail staff, not by the structure of the buildings. Organizers frequently visited people inside the jail. The abuse shared from inside ranged from the medical abuse of pregnant women, to negligence and torture of people with mental illness, to racially-motivated harassment by correctional officers. With consent of

individuals and careful consideration of retaliation, organizers shared these experiences with county actors and media contacts. Quotes from some incarcerated individuals were shared in press releases and in public comments, shifting public discourse to uplift the voices of those inside the concrete walls.

Carceral humanism was central to the county's justification for both jail expansion projects, but particularly the Main Jail expansion project which was formed in direct response to the *Mays* lawsuit. While the *Mays v. Sacramento* strongly recommended a decrease in jail populations, stating that "the parties agree that reduction in jail population is a cost-effective means to achieve constitutional and statutory standards" (*Mays v. Sacramento*, p3), Sacramento County staff focused on constructing a new building. Emphasizing the need for better medical and mental health care in the jail, the county planned to build what they called a "Correctional Health and Mental Health Services Facility", or what was more aptly named by organizers as a "Mental Health Jail".

In April of 2020, as the global COVID-19 pandemic prompted a public health emergency and stay-at-home order statewide, the Board of Supervisors made their first significant public decision on the second jail expansion plan; "Correctional Health and Mental Health Services Facility" annex of the Sacramento County Main Jail. County supervisors and staff had yet to implement a live public comment system for Board meetings, after weeks of opportunity to adopt models in surrounding jurisdictions. Limited only to emailed public comments, organizers rallied as much support as they could, amidst the chaos, suffering, and grief of the global pandemic.

Over sixty community members submitted emailed comments, all in opposition to the project. Without opportunity to speak virtually at the meeting, some public comments were read

aloud during the meeting after organizers negotiated with then Board chair, Supervisor Serna. Robyn Ayres, an organizer with Decarcerate Sacramento and Sacramento Tenants Union, was one of many commenters who brought attention to the fact that “the problems within our county jails system have little to do with the building and a great deal to do with how Sheriff Jones and his staff treat and care for those inside in the building they have.” Mackenzie Wilson also expressed fear and anger that the board was continuing “business as usual in the middle of a crisis. When you work to expand a jail, you work to ensure its use.”

Organizers questioned the board’s definition of experts and how they fail to engage community in their decision-making processes by continuing to disregard the credibility of community members with lived experiences of the jail system.

“I don't know why you [don't] think we are the people you should sit down with. Is it because some of us are young looking? Too radical? Not in suits? Don't meet your expectations of professionals? I'm not sure what it is, but you need you to get over it. One of you once told me that I am the most passionate person you have ever met, well... It's because everyday I am lucky to witness and help create the new world that is possible with the very people you don't take seriously. These folks are the experts, the frontliners, and the ones who are experiencing these things. The ones who demand something different than the status quo because the status quo is why we are in this crisis.”

These comments came in response to some Board members ignoring or refusing meeting requests made by Decarcerate Sacramento after the RCCC jail expansion plan was cancelled.

After intentional relationship-building and advocacy with Supervisor Don Nottoli, he emerged again as the sole board member asking tough questions about the scope of this contract. He raised concerns about the future of the county budget amidst the pandemic, but not about the strategy of the building itself in relation to meeting the *Mays* consent decree. “I see this as an important moment to demonstrate our commitment to upholding the legal settlement that we entered into” said Supervisor Peters, following a question made by Supervisor Kennedy about the opinion of Plaintiff’s Counsel if the Board did not move forward with the design contract.



Supervisor Serna supported the motion, contracting a few less informed public comments about how the plan would not be adding new bed space, “I see our action today as actually advancing better conditions in our jails” he concluded. Serna’s comment provides a clear example of the county’s carceral humanism rhetoric; that the new building would provide the improved jail conditions that everyone wanted, and the lawsuit required.

The Board approved a \$7.2 Million architectural design contract with Nacht & Lewis<sup>37</sup>, officially beginning the process of designing and building a new jail. After the April 2020 vote, Decarcerate Sacramento released a statement on social media to summarize the results of the meeting and the coalition’s goals moving forward:

“We can, and we will, stop this new jail. This is just the beginning of what will likely be a long and hard fight. We're so grateful that so many of y'all showed up on April 21st, submitting nearly 70 e-comments, letting the Board of Supervisors know that a new building will not change the fact that this jail is inhumane. The Sheriff's Department already gets one third of our total county budget, and yet he somehow can't provide soap or cleaning supplies to people in his care during a pandemic. We need to build structures of care outside of the criminal legal system altogether. Sheriff's deputies have shown us that no amount of training can address their culture of violence and torture. No amount of staffing can change the organizational protocols that allow people to die in their cells after begging for help for hours. Sacramento does not need another dark tower. We need the board to prioritize a budget that provides community-based care, because no one can get well in a cell. Sacramento needs care, not cages.”

This statement foreshadowed the fight that was ahead of them, and for the next year, the organization worked to shift county political will, activate community members, and prove that the new building was not legally or morally required to improve medical and mental health conditions in the jail.

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<sup>37</sup>Nacht & Lewis is a Sacramento-based architecture firm that designed the current Main Jail building that opened in 1989. See <https://nachtlewis.com/project/sacramento-county-main-jail/>

Organizers analyzed the entirety of the consent decree, and found that only about four of the over four hundred requirements involved the structure of the buildings. The *Mays* lawsuit names that Sacramento County incarcerates people with serious mental illness at dangerous and disproportionately high rates while subjecting them to extreme isolation, with little or no mental health treatment (*Mays v. Sacramento*). Most board members and institutional leaders in the county believed that the county needed to move forward with the new building to meet the requirements of the *Mays* consent decree, and so this became a primary focus of Decarcerate Sacramento.

Leading up to the Board's vote on a \$10 Million contract with Kitchell Construction to manage the "design/build" process for the "Correctional Health and Mental Health Services Facility" in January of 2021, Decarcerate Sacramento focused on public education. In a virtual informational guide shared to their email base and through social media, DS refuted county arguments. The county claimed that "the project would make lasting improvements to the jail system" by providing space for social distancing, a better intake area, and "ultimately reduce recidivism". These claims by county staff were negated by the fact that they cannot control the actions of the Sheriff's Department or how the new building would be used if it was built. An improved facility would not solve the systemic and cultural issues of Sheriff Department behavior and abuse.

The county's staff report further justified the project, saying that it would solve "concerns specific to HIPAA medical privacy requirements, Americans with Disabilities Act (ADA) requirements, and the need for additional medical facilities, mental health space, and programming space." They argued that "these requirements are not able to be accommodated in the existing Main Jail facility due to limitations in square footage". Organizers had been working

with architects to confirm that the county did not in fact need a new building to meet the HIPAA and ADA requirements of the lawsuit. Widening doorways, installing grab bars, lowering mirrors, installing ramps, and simply closing the door when doctors were with patients in the jail would meet the terms of the *Mays* consent decree.<sup>38</sup>

The County's rhetoric of carceral humanism was again directly confronted by medical professionals leading up to the vote. Dr. Christina Bourne, MD, MPH, a psychiatry and family medicine resident, who had worked inside the Main Jail said that a more "therapeutic" architectural design "is not going to solve the root causes of the consent decree and of suffering inside. An "improved facility" will not solve the systemic and cultural issues of Sheriff deputy behavior and abuse." The role of doctors like Bourne in pushing the political will of the Board was as critical in Sacramento County as it was in Los Angeles County's campaign against carceral expansion. As Clayton-Johnson et al. recognizes, health professionals are a "natural and needed ally in the movement for abolition" (2021, 574).

In a press release by Decarcerate Sacramento before the January meeting, Niki Jones, who had been incarcerated during mental health crises said in a Decarcerate Sacramento media statement; "It was not the building that made it harder for me, it was the Sheriffs," as she described her experience in the Main Jail. It had been over a year after the *Mays* consent decree was finalized and the Board had not heard a status report on any efforts to meet these consent decree requirements. Those who had been incarcerated in the Main Jail since the consent decree was finalized say that little, if any progress has been made to change behaviors and policies. Pamela Emanuel, who was incarcerated in the Main Jail for nearly three years said "It was the cruel way they treated you and constant isolation, locking you down like an animal. Even with

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<sup>38</sup>Mary Perrien, "First Report of Compliance in Mental Health Services Based on Consent Decree," *Mays et al v Sacramento County* Case No. 2:18-cv-02081-TLN-KJN, January 2021.

the consent decree in place they continued to do that, they never stopped.” Pam also emphasized that “the space is not the problem, it’s the management.” The voices in this press release centered the expertise of people who have been incarcerated in Sacramento County jails, further refuting narratives of carceral humanness through abolitionist discourse.

After a strong mobilization to the January 26th meeting, the county delayed their vote after Supervisor Nottoli advocated passionately how he could not support moving forward with the project.<sup>39</sup> “Why is it that we can’t have that discussion about elements/things we can do outside the walls of a jail before we embark on the construction aspect?” he said at the meeting. The Board voted in unison to delay the project until they had more information, despite the comments made by the Board’s most “progressive” members, particularly Supervisor Kennedy who said he believed that “what is there now is inhumane” and “it is not ADA compliant which means we are breaking the law- it is not HIPAA compliant which means we are breaking the law... I do think we have to go forward with these changes and with a correctional health facility at that location” he concluded, showing organizers that they had work to do before the next vote. For the more progressive members of the Board, their arguments for the jail expansion had less to do with the inherent qualities of the technology of the cage, and more to do with the specific application and scope of its use (Schept 2015).

Working closely with internal county allies organizers learned that the Board would revisit the decision on March 10th, 2021. Decarcerate Sacramento met with Supervisor Nottoli, newly appointed interim CEO Ann Edwards, and Mays Plaintiff’s Counsel to gain support and explain their contradictions to the county’s plan. They also held a virtual community forum in February that gathered over forty community members, sharing their carefully researched facts

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<sup>39</sup>Michael Finch, “Sacramento Supervisors Delay Vote on Expanding Troubled Main Jail Downtown,” *The Sacramento Bee*, January 2021. <https://www.sacbee.com/news/politics-government/article248805135.html>

that refuted all known justifications for the jail expansion. The following public letter, released by Decarcerate Sacramento in the form of a petition that gathered over 700 signatures, was sent to the Board of Supervisors leading up to the March Board meeting, summarizing arguments against the Main Jail expansion plan:

*We believe that the majority of the Sacramento County Board of Supervisors know by now that the Mays v. Sacramento consent decree does not require a new jail building. The plan to build a “Correctional Health and Mental Health Facility” is severely misguided, and we urge the Board of Supervisors to cancel the plan (costing \$10 million for the plans alone) on Wednesday, March 10th. We call upon the Board to acknowledge that a new jail annex is not the only option to meet the consent decree, not a cost effective option, and least beneficial for improving the welfare of the 3,200 persons who are incarcerated.*

**1. This expansion project is a false promise;** it does not remove the fundamental and urgent need for measurable policy and organizational culture change inside the jail system. These changes require meeting hundreds of consent decree requirements related to medical, mental health, and suicide prevention issues. As of January 2021, more than a year after federal approval of the consent decree, the county has not fully complied with any of the mental health provisions, none of the suicide prevention provisions, and only 5% of medical provisions.<sup>40</sup> The Board of Supervisors should be focused on organizational leadership structures and accountability, to ensure that Adult Correctional Health, UC Davis Psychiatric Services, and the Sheriff’s Department are undergoing the necessary changes to meet their consent decree requirements.

**2. A new jail annex will not meet the consent decree.** In fact, this option will likely lead to further human suffering and more lawsuits. The Main Jail Annex would not bring the County into compliance with the Mays consent decree. Assuming the project will include 100-150 new mental health beds, the new building would only accommodate roughly 5% of the 55% of the jail population currently living with mental illness, and not until 2026 or later - well after the Mays consent decree timeline for compliance. We urge County staff to recognize that the ADA and HIPAA requirements needed to meet the consent decree can be met in the Rio Cosumnes Correctional Center, requiring only minor structural changes.

**3. The County needs to focus on improving care inside the jails now.** In the “First Report of Compliance in Mental Health Services Based on Consent Decree,” expert Mary Perrien questioned why the singular solution under discussion has been construction of the Main Jail Annex stating, “there must be an interim plan to provide adequate treatment at all levels of care for all detainees in need of mental health services.”<sup>41</sup> Perrien stressed that this interim plan “will require that all parties come together and work creatively to identify effective, acceptable solutions while awaiting the annex.” Dr. Perrien’s compliance report describes situations she observed where

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<sup>40</sup>Mary Perrien, “First Report of Compliance in Mental Health Services Based on Consent Decree,” *Mays et al v Sacramento County* Case No. 2:18-cv-02081-TLN-KJN, January 2021.

<sup>41</sup>Ibid.

*Sacramento Sheriff's deputies interfered with programming and mental health care, and yet the Board has paid little attention to the Sheriff's deficit in satisfying the consent decree.*

**4. Jail population reduction is a possible and necessary solution.** *The Mays v. Sacramento consent decree stresses that population reduction is the most cost effective and humane way to meet its requirements, and both parties agreed. Diverting people with disabilities and severe mental illness can and will count towards Mays consent decree progress and compliance. The county's current mental health court diversion programs plan to divert less than 200 people per year out of Sacramento County jails, despite 40,000 jail bookings every year. Fully funding programs like the Public Defender's Pretrial Support Project, that connects individuals to social services pre-trial, is one strong example of investments the county can make to sustainably decrease jail populations, as 70% of persons incarcerated in the jails have not been convicted of a crime.*

**5. The Board must prioritize the future of our county budget.** *They can start by implementing accountability systems for the financial burden of the Sheriff's lawsuits, which account for 38% of Sacramento County's total lawsuits. Jail population reduction will significantly reduce the financial burden of maintaining the county's high jail population and its ongoing medical and mental health needs. The Board of Supervisors decides who bears the financial burden of the consent decree requirements, and how that consent decree is met. If Sacramento County is truly concerned about meeting the Mays consent decree in the most fiscally responsible way, the county will commit to building a comprehensive and measurable coordination plan with all power-holders in the criminal justice system to prioritize significantly decreasing jail populations first, before moving forward with any construction project.*

*As community members and organizations in Sacramento County, we do not approve the use of \$10 million from our General Fund for the Kitchell Construction contract. We recognize this is just the beginning of the budgetary violence that will divert \$200 million of taxpayer funds, and exponential operating costs, for a new jail building. Sacramento County has not fully exhausted all options for meeting the consent decree. We call for an end to this project and a renewed call to invest in our communities that prioritize public health and community safety.*

This public letter, the arguments of which were echoed throughout public testimony at the final board hearing, helped construct the situated meaning of the Main Jail expansion in relation to the county's rhetoric of carceral humanism. By circulating their own well-researched narrative that directly refuted the county's, DS organizers were producing knowledge that shifted the local carceral landscape. Finally, on March 10th, after successful online education campaigns to raise public awareness and understanding, a powerful display of community opposition echoed throughout the hearing.

But before the public could testify, county CFO Britt Ferguson and consultants from Nacht & Lewis presented their carceral ideologies in one final attempt to demonstrate the project's validity to the Board of Supervisors. Ferguson started by expressing his "hope" that the jail population will reduce but stressed that "we expect that there will always be a reasonable amount of jail inmates needing medical and mental health care". His collective "we" likely referring to carceral system actors that the CEO's office worked closely with, exposing that their logics were heavily influenced by those who have a vested interest in carceral expansion. Ferguson stressed the need for "consensus" among criminal justice partners, but made no mention of including community in decision-making.

The CFO outlined the recent Carey Group consultant report's findings, which recommended that the county create a "criminal justice master plan", "make pretrial a priority", and more significant communication and collaboration within the county's legal system, among others. It was common for county staff to refer to the work of consultants as goals that the county planned to achieve, while offering no specific timeline or structure related to how they would achieve them. The county utilized consultants to outsource analysis which most often reinforced the dominant carceral logics held by county leadership. Schept recognized similar practices by Monroe County in Indiana, naming the reliance on carceral consultants as a way of outsourcing community engagement (Schept 2015). Despite Sacramento County's own consultant finding that the county "over-incarcerates" and recommending jail population reduction strategies, Ferguson qualified this finding by saying "none of us know what it will take". As one public commenter summarized later in the meeting, "I think a lot of [Britt Ferguson's presentation] was inaccurate: he stated multiple times that the cost of maintaining programs that get people out

pretrial would exceed the cost of the jail expansion when Nacht & Lewis conceded that they don't even know how much money that would cost.”

As he concluded his three hour presentation, much of which was listing programs of different county departments that allegedly aimed to decrease the jail populations, CFO Britt Ferguson showed his projections for future jail populations. Showing a bar graph, he claimed that if crime rates do not change significantly, the jail population would increase by 25% by 2045. He claimed that this would be caused by the increase in younger populations as “people in that age group are more likely to commit crimes”. The community was infuriated by this claim, and the many contradictions in Ferguson’s presentation. Public commenters challenged the Board’s perceptions of experts and the inherent authority that the county’s Chief Financial Officer was given on criminal justice.

The county’s hired Nacht & Lewis architects and their corrections consultant then presented their approach to the Main Jail expansion project, which was deeply rooted in carceral humanism. Eric Fadness introduced himself as a principal architect who oversees “justice architecture” with a primary focus on “medical and mental health treatment environments” and detailed the firm’s plans for the project and the “design/build” process. Dr. Robin Timmy, claiming legitimacy through his work as a psychologist in carceral spaces and his Masters degree in criminal justice, was identified as Nacht & Lewis’s correctional health expert. In a presentation that organizers saw primarily as a sales pitch for the new jail building, Timmy argued that the design of the new jail building would impact the culture and relationships within the facility. Deflecting attention from the practice of caging of people with mental illness, he reinforced the ideology of carceral humanism and the inevitability of incarcerating people with significant medical and mental health needs. He argued for a “proactive” approach that



“reconceptualizes” jails and prisons that “look and feel and operate much more like a healthcare facility” adding that “the jails and prisons of today don't look like they used to look.” Using this rationale of therapeutic design, he added that “when you create a more welcoming environment that is patient-centered and more in line with the ethics and underlying motivations of healthcare professionals, you end up making people more satisfied and delivering better care.” Timmy’s language exemplifies the exact logics of carceral humanism.

The carceral consultant also seemed surprisingly well aware of the critiques the county was facing by the public and seemed to use language to directly address the community’s concerns. “We’re really preparing people to return to the communities from where they came” he said, adding that they planned on “bringing community into the facility” to

In what seemed a direct response to public comments made at the previous hearing and in online written comments, as the public stressed that “a building is just a building”, he said

“A building is just a building, right? And it takes a lot more than a building to change what needs to change as represented in the Mays consent decree. And I couldn't agree more with that. I know that the architects working on this project at Nacht & Lewis believe that the purpose of the facility is the priority. The people are the priority. What is going to happen, the care that is going to be delivered, was the first thing we started looking at, what are your operations? And not until later do we start talking about how we can create a space where you can carry-out those operations as effectively and efficiently as possible.”

His statement seemed an attempt to reframe the testimony that the Board of Supervisors had heard from the public and to subdue the community’s strong arguments against the project.

After hours of county presentations wrought with carceral logic and contradictions, two representatives presented on behalf of Decarcerate Sacramento. Dr. Christina Bourne, who introduced herself as a family medicine doctor and psychiatrists, with a Masters in Public Health, and who had worked in Sacramento County jails, started the presentation by emphasizing that “we’re talking about human life which can’t be distilled down to fiscal terms, so we will be

honoring and recognizing the more humanistic perspectives of this proposal.” Tifanei Ressler-Moyer followed by introducing herself as a civil rights attorney and member of Decarcerate Sacramento, and added that “for a number of years I was Plaintiff’s Counsel on the Mays v. Sacramento case, however that is not the case today.”

Ressler-Moyer’s comments are described in detail in chapter two, where she explained the limits of focusing efforts on meeting the legal minimums of the consent decree. “While we understand the rationale behind this proposal, existing data demonstrates that this is an extremely costly plan to fail.... The proposal before the public today is to develop a three-building jail system where only one of the buildings is compliant with the legal compliance of the ADA and HIPAA. The third building is proposing to house less than 5% of the current jail population that has been diagnosed with a mental health illness but the county is projecting that the jail population will steadily increase, meaning even less than that percentage will be served. That fact alone puts the county at risk of future litigation.” Blurring the line between the legal arguments and confronting carceral humanism, Ressler-Moyer argued that the county’s stated goal of meeting the consent decree would not be successful with their current plan

Displaying a page from one of the consent decree monitoring reports on the Mays consent decree Remedial Plan from January 2021, Dr. Bourne then summarized that “throughout much of this report, it discusses serious systemic issues which resulted in harming patients leading to hospitalizations and deaths.” She highlighted that “much of this report cites things that are not related to the structure of the jail but instead related to current policies, practices, culture and the overall way that care is delivered there.” With compassion, giving the public a trigger warning, she described the report’s details of how medical staff neglected an incarcerated person to the point of causing their preventable death. She quoted the report directly, saying

“this case lacks cooperation between medical and mental health staff and the indifference of two nursing staff. This may reflect a wider cultural issue at the jail. Directly related to inappropriate and incompassionate care.”

Supervisor Sue Frost interrupted the description of the death caused by jail staff, reminding the two DS representatives that they had just two more minutes to conclude their presentation. Reflecting not only a pattern of silencing dissent, her interruption reflected her disregard for human life. Frost cut off the phone lines of Decarcerate Sacramento’s presentation before Ressler-Moyer got the chance to complete her final comments. This punitive political choice was called into question by many community members, urging the Board to “listen with empathy” and naming the contradiction that almost four hours were given to county staff while DS was only given ten minutes. Community members uplifted the expertise of DS representatives—a lawyer who had led the Mays case and a doctor who had worked in the jail — directly confronting the power and authority held by the Board of Supervisors that shaped the narrative through their decision of which voices are heard in public hearings. The ability of Decarcerate Sacramento to negotiate even a short presentation during the board meeting was itself a political feat, an unusual occurrence for even the most “credible” or “respectful” community activists. Community recognized that the ability to influence public discourse with new knowledge presented by abolitionist organizers was necessary to shift power.

Public commenters echoed support for Decarcerate Sacramento and the NAACP, after one of the first to give testimony, LaMills Garrett, identified himself as a member of the Sacramento NAACP. “Research has shown over and over again that the worst place you can put a person with a mental health issue is a jail” he said, adding that “the consent decree already proved that there was a public health crisis in the jail long before COVID.” Residents echoed the

points in Decarcerate Sacramento's petition, and many identified themselves as people who would be "directly" affected by the jail expansion as people of color with mental health diagnoses. "I'd like you guys to spend a week in jail and then come back to the table and then tell me whether you believe that a jail expansion plan to warehouse people with some of the most severe trauma is gonna work" said Henry Ortiz, a previously incarcerated community organizer with All of Us or None.

Black organizers practiced Shange's concept of *willful defiance* throughout the struggle to reject jail expansion plans—privileging the necessary over the possible (Shange 2019). Jael Barnes, whose husband is incarcerated pretrial in the Sacramento County Main Jail for two years, suffering from mental health issues, told the Board that she "can't help but think you guys have never spent time in jail because if you had I doubt this expansion would even be a topic. I'd like to know how this new jail would be any different from the current one. Is there no way to make sure that folks who need mental health treatment get that without being put in jail?" Sonia Lewis, invoking Black abolitionist refusal (Shange 2019), called in three times during the hearing. Lewis said the names of those murdered by the Sacramento County Sheriff's Department; including Marshall Miles and Brandon Smith. She told the Board that her children had been incarcerated in the jail and said that "the building of another facility is a matter of perpetuating racism. So I call you right now tonight and I come to you for my ancestors who died in route to America in the Atlantic ocean, those who killed themselves during slavery, those who were murdered and lynched during Jim Crow and lynching laws all throughout the south." She put her eleven year old child on the phone who said "don't build any more jails because it will just create more cells for more Black people to go in," echoing the growing number of Black children who called into the Board meeting urging the board to build an abolitionist future for

them. From rejecting institutional rules of decorum to pushing the boundaries of collective imagination—these Decarcerate Sacramento organizers challenged the legitimacy of the state through defying what the county deemed as possible (Shange 2019).

After nearly two hours of public testimony, organizer's hopes shifted when Supervisor Serna, who was historically in support of the project, expressed that he would not support staff's recommendation to build the jail annex. Followed by Supervisor Kennedy who expressed agreement, but remained rooted in the neoliberal logic of carceral humanism by adding that he believed that investment in the physical jail facility would promote humane treatment. Decarcerate Sacramento organizers realized at that moment, when two supervisors joined Supervisor Nottoli in opposition, that the jail project would likely not move forward, with at least three vocal board members planning to vote against the project. Despite the following attempts by County Counsel to invoke fear that Plaintiff's Counsel would be upset by this decision, the board voted to cancel the Main Jail expansion project on March 10th, 2021.<sup>42</sup> Organizers celebrated on a virtual call after the meeting, overwhelmed with joy and relief that they had prevented the building of a new mental health jail in Sacramento County.

Decarcerate Sacramento rejected the narrative that this project was about improving jail conditions, centering the fact that incarceration itself was a health crisis, and new buildings will not change the way that people treat people. County staff and their hired architecture firm focused on the organization of space in the jail, not whether the jail should exist or the role of incarceration in the community. They offered visions of the new jail building that imagined the institution with capabilities that were contradictory to the nature and purpose of incarceration. They supported county official's discourses that suggested a repurposing of incarceration for

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<sup>42</sup>Medina, Jose. "Sacramento Supervisors Vote 4-1 to Reject Jail Expansion; Decarcerate Activists Notch Big Win". *The Davis Vanguard*. March 16th, 2021.

mental health treatment was a moral imperative. These narratives presented in public hearings suggest the carceral state’s adaptability to move beyond punishment, implicates the complicity of carceral humanism in steadying, rather than destabilizing the carceral state (Schept 2017). Carceral humanism was central to the county’s justification for both jail expansion projects.

Despite the ideologies of state actors, the community collectively refuted the logics of carceral humanism that powered the jail expansion plans. From the critical role of medical professionals speaking publicly on the inherent harms of incarceration, to uplifting the experiences of people who experienced incarceration in the county jails, to the carefully researched arguments created by Decarcerate Sacramento—the voices in this section told a story of how public testimony shifted the narrative on incarceration. Challenging institutional power dynamics by redefining experts, organizers facilitated a wide coalition of community voices to prove that a new building would not address the vast majority of the *Mays* consent decree requirements, and was not a solution to improving the treatment of people inside the jails.

Community organizers have stressed, throughout both jail expansions campaigns, that the county should focus on investing in human needs in order to prevent jails becoming the only place where medical and mental health care services are available to people who need them most. The revolving door of incarceration in Sacramento County can be shut with strategic investments in care-based infrastructure. In 2019, over half of the jail system population’s “length of stay” was seven days or less (Perrien 2021). In the same year, the county spent 37% of its General Fund budget on the Sheriff’s Department, and over 70% of the General Fund on the legal system.<sup>43</sup> Only 12% of discretionary funds were allocated to Health and Human Services. Organizers in Sacramento have named this as *budgetary violence* because budgets like this cause

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<sup>43</sup>“Budget Spending Should Reflect Community Needs and Priorities,” *People’s Budget Sacramento*, 2020. <https://www.peoplesbudgetsac.com/>

harm to communities—more than they provide support for them. Scholars have shown that a primary cause of mass incarceration in the United States stemmed from drastic divestments from social services, job loss, and the rise of austerity budgets (Davis 2003, Gilmore 2007, Wang 2018). The shift of state funding priorities away from the welfare of people and towards the welfare of capital since the 1980s, that Gilmore describes as a central contributor to the growth of the carceral state, has yet to be reversed. The only way to reduce the number of people who end up incarcerated is to reinvest public funding—away from policing, and towards life-affirming services.

## **Conclusion**

Sacramento County organizer’s recent engagements with preventing carceral expansion offer new theoretical insights to the landscape of abolitionist organizing. Decarcerate Sacramento’s work can support organizers in reflecting on the context and drivers of current and future campaigns to prevent carceral expansion. What potential is unlocked when community organizers expose the legal, economic, and ideological drivers of local jail expansion? This case study answers this question—modeling the possibilities of abolitionist organizing tactics within situated legal, political-economic and ideological geographies.

This work has explained how jail conditions litigation and various legal system actors propelled carceral expansion in Sacramento County as the *Mays v. Sacramento* lawsuit was weaponized by elected officials, county executives, and local Grand Juries. This case study supports Schoenfeld (2010), Guetzkow and Schoon (2015), Ressler-Moyer et al.’s (2021) findings—that ‘successful’ conditions litigation threatens to increase municipal spending on jails and that when confronted with such litigation, elected officials most often choose jail expansion as a legal solution. While new jail buildings were prevented due to community organizing,

municipal spending on Sacramento County jails has still increased in order to renovate existing buildings for ADA compliance, providing further evidence that conditions litigation increases local carceral spending.<sup>44</sup>

Lawyers and legal system actors can learn from the *Mays v. Sacramento* case and shift their utilization of law in order to support decarceration. As Schoenfeld explains, litigating the treatment of people who are confined in prisons and jails requires the translation of these systemic problems into constitutional rights-based framing, which limits the ideation of the problem to “immediate dangerous conditions” instead of the “overuse” of incarceration (2010). Further affirming Ressler Moyer et al.’s claims—*Mays* Plaintiff’s Counsel’s failure to consider the impact of their litigation on the Sacramento community, combined with their failure to vocalize their opposition to the jail expansions publicly, undermined the work of abolitionist organizers and further emboldened county leadership to plan for jail expansion (2021). Ressler-Moyer et al.’s recommendations for lawyers to understand and fight power imbalances, name inequities and clearly define victory, and build systems of accountability to communities and clients—can mitigate the financial and social repercussions of carceral litigation and promote an anti-racist practice of law.

California’s Public Safety Realignment opened a new front to the movement for abolition. By shifting the capital investment opportunities from state prisons to county jails, dramatically increased the accessibility of local carceral capital through Lease Revenue Bonds, the prevention of carceral expansion projects required grassroots abolitionist organizing on the

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<sup>44</sup>See “County Buildings & Capital Construction,” *Sacramento County Capital Improvement Plan FY 20-21*, 2020. <https://bdm.saccounty.net/FY201718BudgetInformation/Documents/CIPCountyBldgsandCapitalConstruction.pdf> (Sacramento County’s Capital Improvement Plan for FY 20-21 included “\$105.7 million for improvements at the RCCC”, “22.7 million for improvements at the Main Jail”, and “2.9 million for American with Disabilities Act (ADA) upgrades at various facilities.”)



local level. My findings support Schept’s claim that Realignment solidified the role of the county jail in the carceral state (2015). In addition to lengthening county jail incarceration terms, Realignment solidified further investment opportunity for private capital—financially incentivising incarceration at the local level as a commitment to state bond funding required decades of continued jail operation. This finding supports Wang’s point—that the localist model of municipal governance fuels racial capitalism (2018)—by allowing localities the extensive political autonomy to prioritize carceral expansion as a solution to a surplus of private capital.

While grassroots abolitionist organizers have fought municipal bonds for jail expansion in many California counties, only a few campaigns have been successful. Los Angeles County and San Francisco County have both successfully pressured their elected representatives to reject state LRB funding for carceral expansion. San Francisco has since closed one jail<sup>45</sup> and Los Angeles County has now committed to closing one county jail after sustained decarceration efforts.<sup>46</sup> Alameda County and Orange County, however, continue to fight the construction of new mental health jails from state Realignment funding. It’s also important to recognize the gap in knowledge of rural organizing efforts to prevent carceral expansion plans, as counties like Fresno and Merced are currently expanding their jails through SB1022 Lease Revenue Bonds. Future research is needed to investigate the presence of, and the unique challenges that arise in, abolitionist organizing in rural communities.

Sacramento County is one of only four California counties to abandon plans for new jails with Realignment funding—relinquishing a total of \$212 million in state jail construction

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<sup>45</sup>Michael Barba, “SF Speeds Up Jail Closure to Early September,” *San Francisco Examiner*, August 2020. <https://www.sfexaminer.com/news/sf-speeds-up-jail-closure-to-early-september/>

<sup>46</sup>Eric Spillman, “Los Angeles County Supervisors Vote to Shut Down Men’s Central Jail,” *KTLA5*, June 2021. <https://ktla.com/news/local-news/l-a-county-supervisors-vote-to-shut-down-mens-central-jail/#:~:text=The%20Los%20Angeles%20County%20Board,News%20on%20June%2023%2C%202021.>

funding since the start of the COVID-19 pandemic (Kang-Brown et al. 2021). When counties rejected this jail construction funding, the capital returned to the state and deepened the available funding for other counties (Kang-Brown et al. 2021). This means that the local rejection of state bond funding for carceral expansion potentially just displaced the carceral spending, rather than preventing its use altogether. There is a need for further research to examine the statewide carceral impact of Realignment bonds after counties like Sacramento halted plans for jail expansion.

There is also opportunity for further community organizing to ensure that yearly Realignment funding through the Sacramento County Community Corrections Partnership (CCP) Committee is invested in life-affirming reentry and diversion programs. Currently, the majority of the approximately \$50 Million in funding each year are given to the County Sheriff and Probation departments, with virtually no measurement of this funding's impact on recidivism. Counties across California have called for "Reimagine 109" campaigns that have successfully shifted the use of these funds towards life-affirming community services.<sup>47</sup> Decarcerate Sacramento advocated for community engaged decision-making at the CCP committee in December of 2020—which led to the CCP committee filling its only, legally required, community-representative seat that had been vacant since the inception of this body in 2012—and continues to apply public pressure to reimagine and reinvest these funds.

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<sup>47</sup>See Zuniga et al. "Reimagine 109: Allocate 50% of AB109 Funds to Community-Based Organizations for a Stronger Los Angeles County," *Women's Foundation of California*. <http://criticalresistance.org/wp-content/uploads/2018/02/ReImagine109Summary.pdf> ("In FY 2013-14, Santa Clara County allocated almost 34% of its AB 109 funding to programs and services, while LA allocated only 20%. Earlier this year, the Alameda County Board of Supervisors voted to allocate 50% of its AB 109 funding to community-based services. Contra Costa County adopted a series of decarceration policies and dedicated 60% of their AB 109 funding on reentry programs and services, resulting in an astonishing drop in their recidivism rate by 21%.")

This work also demonstrated the construction of a situated abolitionist discourse that confronted carceral humanism, which was foundational to the cancellation of both jail expansion projects. By refuting narratives of carceral humanism through abolitionist logics, Decarcerate Sacramento organizers proved that a new building would not address the vast majority of the *Mays* consent decree requirements—and most importantly—was not a solution to improving the treatment of people inside the jails. Organizers carried Schenwar and Law’s claim that the answer to addiction and mental health issues does not reside in the criminal legal system (2020). The case of Sacramento County provides further evidence of the national rise in “treatment jails” and supports Kilgore’s claim that repackaging jails as caring social-service providers has become more necessary in the current political climate (2014). Furthering Schept’s work recognizing the relationship between discourse and knowledge in constructing authority and power—this study shows how the local construction of knowledge and discourse in Sacramento shifted power structures and built the political power necessary to stop carceral expansion (2015).

The continued grassroots resistance to anti-abolitionist reforms like carceral humanism, that allow for the continued confinement and control of abandoned communities, was supported by medical students and professionals. The critical role of health professionals in Sacramento County’s campaigns to prevent jail expansion further supports Clayton-Johnson et al.’s claim that health professionals are a “natural and needed ally in the movement for abolition” (2021, 574). In both successful abolitionist campaigns, medical professionals challenged the justifications of proposed new jail buildings by vocalizing that policing and incarceration are health crises themselves. Clayton-Johnson et al.’s call to action for health professionals to speak up in local criminal justice debates is strengthened by their impacts in Sacramento (2021).

Organizers of Decarcerate Sacramento and the local abolitionist movement embraced what Gago calls a feminist *potencia*—they displaced the limits of possibility for abolition in their community (2020). Their desire was contagious—spreading a collective reimagining of what was perceived as possible and privileging what they knew was necessary (Shange 2019). The individuals that came together on that warm Friday evening in the summer of 2019 were uniquely positioned to organize together. The many years of building relationships and political understandings, and lived experiences with the jail system that predated the convergence of Decarcerate Sacramento, was a critical component in grounding their work together in profound care. These organizers continue to build relationships with people currently incarcerated in Sacramento County jails, which remains a significant challenge due to the numerous carceral barriers that aim to isolate people inside. Organizers in other geographies should prioritize community building with people impacted by local jails, and people who live inside them, as a first step towards building local abolitionist movements.

The organized abandonment of communities due to compounding crises or racial capitalism—that Ruth Wilson Gilmore has theorized as a central factor in California’s prison-fix—cannot be separated from the context of Sacramento County (2007). As the global COVID-19 pandemic rages on, surplus labor is increasing the potentially imprisoned population—opening new domains for exploitation and threatening new forms of carceral control.<sup>48</sup> This case study can, and should, be situated in a national and international context. Communities experiencing similar struggles that have emerged from similar crises, could find similar strategies, modeled by Decarcerate Sacramento, useful in organizing against racial capitalism and the carceral state.

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<sup>48</sup>While jails and prisons are closing throughout the United States, the rise of e-carceration is threatening to take the place of concrete cages. See Schenwar and Law 2021.

Moving forward, a broad coalition in Sacramento County is building an action-oriented framework and implementation plan to scale alternatives to incarceration and diversion, so that care and services are provided first, and making jailing a last resort, and eventually obsolete.<sup>49</sup> Community members plan to implement their vision by expanding and scaling community-based holistic care and services through capacity-building and service coordination, minimizing law enforcement responses to crises caused by unmet needs, developing meaningful pretrial release and diversion services, providing treatment services instead of jail time, eliminating racial disparities, and authentically engaging and compensating system-impacted individuals in this process.<sup>50</sup> This will require a profound shift in county budget priorities. As of August 2021, the county has shifted their focus towards decreasing jail populations and is creating a new agency to focus on this work. After two years of focused organizing, the community has given the county no other choice but to sustain a decrease in the jail populations—a task that will require sustained efforts over many years, and organizers hope will lead to the closure of Sacramento County jails.

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<sup>49</sup>Similar to that of Los Angeles County. See “Health and Racial Justice Strategies for Safer Communities,” *Los Angeles County Alternatives to Incarceration Work Group*, 2020. [https://lcalternatives.org/wp-content/uploads/2020/03/ATI\\_Full\\_Report\\_single\\_pages.pdf](https://lcalternatives.org/wp-content/uploads/2020/03/ATI_Full_Report_single_pages.pdf)

<sup>50</sup> Ibid.

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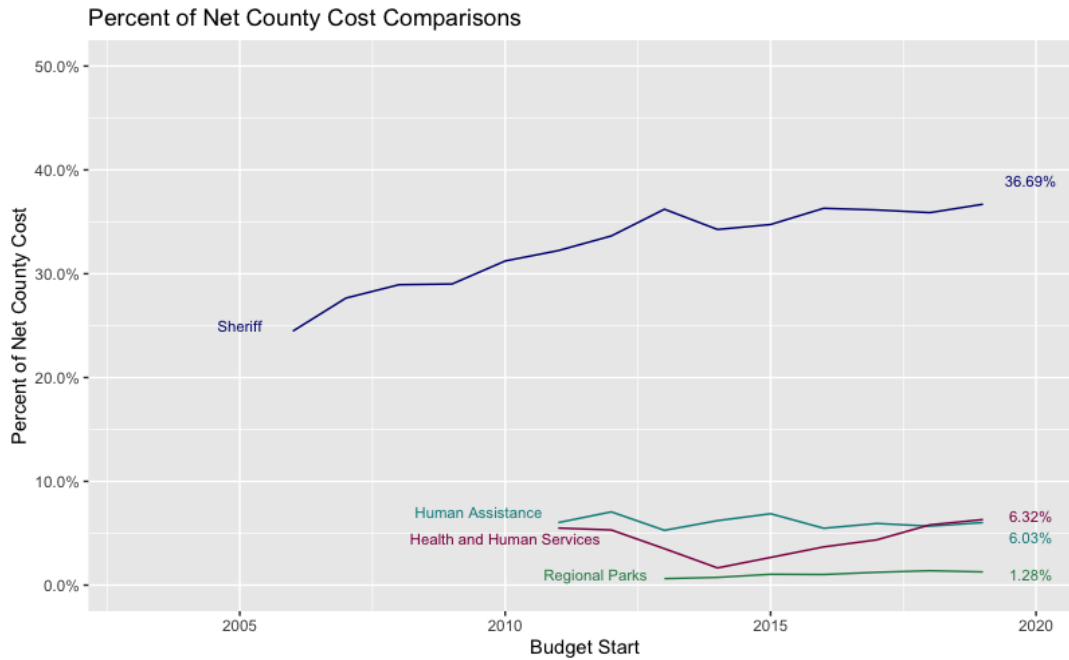
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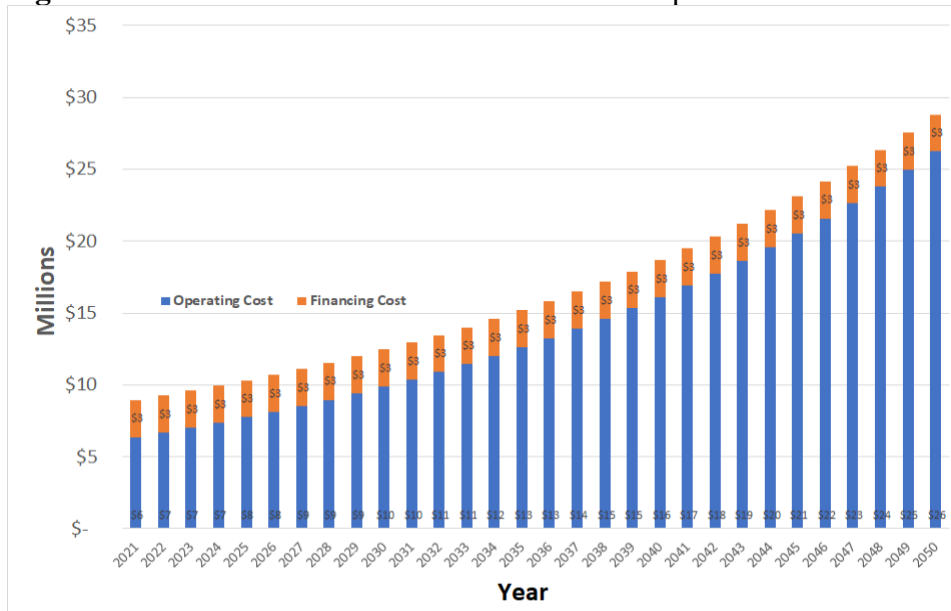
## Appendix

**Figure 1. “Percent of Net County Cost Comparisons”**



Percent of Net County Cost related to the General Fund that goes to the Sheriff's Department versus Health and Human Services, Human Assistance, and Regional Parks. This chart includes a display of the percent of total net county costs associated with various departments annually. Sheriff data is available and charted from budget years 2006-2019. The chart also includes net county costs associated with Regional Parks (2013-2019), Health and Human Services (2011-2019), as well as Human Assistance (2011-2019) (Created by Melissa McTernan, PhD).

**Figure 2. “Lease Revenue Bond Cost for RCCC Expansion”**



The SB1022 Lease Revenue Bond for the RCCC expansion project would have required tax-payers to repay approximately \$124 Million, more than double the proposed loan, without accounting for added operational costs of the jail expansion. The RCCC expansion project would have cost the county exponentially more every year, due to increased staffing obligations, which alone make up 85% of the annual costs of operating RCCC. In addition to costing the County over \$547 million pre-inflation, the project would have added an average of \$18 Million to the Sheriff’s annual budget to cover debt payments, interest, and operating costs for 30 years. (Created by Decarcerate Sacramento).

**Figure 3. “Safety Cell”**



“Safety Cell” used by Sacramento County Jail staff for “patients presenting with acute psychiatric symptoms” (*Mays v. Sacramento*).