

COVID-19 Mitigation at the County Jail

And Its Unexpected Consequences

SUMMARY

By the end of April 2021, American jails and prisons had seen over 660,000 COVID-19 infections and over 2,990 COVID deaths. At the same time, Sonoma County's detention facilities had seen no deaths and had transferred no cases to a hospital. These outcomes resulted from unprecedented coordination and partnership across the County to reduce the incarcerated population immediately after COVID began to spread, and by the quick response of the Sheriff's office.

The District Attorney and Public Defender agreed to release hundreds of people who posed no threat to public safety, enabling the Sheriff's Office to close the minimum-security North County Detention Facility (NCDF) in October 2021 and reduced the population at the Main Adult Detention Facility (MADF), a middle to maximum-security jail, to 700. The Sheriff led by example, directing his patrol deputies not to arrest people for minor offenses. Local law enforcement followed the Sheriff's lead and changed their approach to policing, prioritizing the use of citations over arrest. Finally, the Presiding Judge provided invaluable support to the effort, ordering the continued suspension of cash bail even after the State allowed resumption of pre-pandemic bail schedules over the summer.

As a result, Sonoma County succeeded where so many others failed. With unprecedented cooperation, our local criminal justice partners kept the County's jail population below 800 for the longest period in over a decade, and likely prevented a jail-wide COVID outbreak and possible hospitalizations and deaths.

A year later, we can now also see the extended impact of a reduced jail population. Jail population fell without a corresponding rise in crime. Incidents, in fact, continued their longstanding downward trend. It also became apparent how much money a smaller jail population actually saved: almost \$3 million in the first six months. The correctional officers at the jail are no longer required to work 17 hours per week in overtime (as it was just before the pandemic). We can assume there would have been another \$3 million saved during the second six-month period of the pandemic year. That is an almost 8% savings on the \$74 million-dollar County allocation to the MADF in year 2019-2020. Those savings will continue as long as we do not return to the pre-pandemic approach to policing and incarceration.

Arresting and incarcerating people is very expensive (\$198 per person per day). The County incurs these costs because the law requires a wide range of services to those we choose to incarcerate. Medical and behavioral health services, a safe and humane environment, and a bridge to continued support upon release are all required.

To protect inmates and jail staff from the spread of COVID, the Sheriff's Office discontinued outside visitation, rehabilitation programs, education programs, and communal meals. This greatly reduced out of cell activity (OCA). These emergency procedures were common among many other county jails. Most jails filled the void by giving easier access to video, phone, or other means of communication or diversion to compensate, but Sonoma County did not.

According to the Sheriff’s records, during the pandemic inmates are spending less than an hour per day outside of their cells. That equates to 23 hours a day locked inside their closed-door cells. Prior to the pandemic, most inmates had at maximum three hours per day out of their locked cell for out of cell activity as well as time outside for educational and rehabilitative programs, religious observances, in-person visitation, and meals.

Although limited OCA time may have been necessary early in the pandemic, it has been over a year and we could find no measurable attempt to lessen the isolation these measures imposed on the inmate population. It is important to note that over 55% of the jail population are not convicted and are merely awaiting trial.

By continuing the efforts to keep the incarcerated population lower, the Grand Jury concluded immediate savings would be more than sufficient to solve some of the jail’s most troubling problems: lack of sufficient visitation options during the pandemic and lack of sufficient discharge planners. There is currently one discharge planner, a social worker responsible for providing a bridge to medical, behavioral health, and social services in the community. The discharge planner’s caseload is approximately 400 inmates who have been diagnosed with behavioral health issues. There is no discharge planner to aid the remaining jail population. All interviewed agreed this is clearly insufficient for this important connection to the community.

Sonoma County Jail Population in 2021	
<ul style="list-style-type: none"> • 40% are homeless prior to arrest • 45% are diagnosed with behavioral health needs • Over 55% are awaiting trial • Over 100 people come in and out each week 	

GLOSSARY

- CDC Centers for Disease Control
- DHS Department of Health Services
- IOLERO Independent Office of Law Enforcement Review and Outreach
- MADF Main Adult Detention Facility
- NCDF North County Detention Facility
- OCA Out of Cell Activity
- Wellpath The jail’s medical and behavioral health care provider

BACKGROUND

Pre-COVID, the Sheriff’s Office applied a modern direct-supervision model to its management of the County jail. The more freedom incarcerated people have, according to the Sheriff’s Office, the more ability they have to contact the outside world, and the more stable they will be upon release. The caveat, of course, is that the jail must have sufficient staffing to allow the extended freedoms it seeks for the jail’s incarcerated population.

Understaffing had been a consistent problem at the MADF and NCDF. For years, the Sheriff’s Office had struggled to fill correctional staff vacancies, at times stretching beyond 20 open positions. Over the past decade with insufficient staffing to supervise over 1,100 inmates in the two facilities, the Sheriff’s Office had continually required mandatory overtime from its

correctional staff. The Sheriff's Office had previously required its correctional deputies to work over 17 overtime hours each week.

This report addresses two key efforts County officials pursued immediately in response to the March 2020 public health crisis. First, our local criminal justice system came together in an unprecedented effort to reduce the number of people we held in our jails and prevent a COVID outbreak. Second, the Sheriff's Office suspended in-person visitation, education programs, religious observances, and other rehabilitative programs to lower the risk of infection spreading. These initial efforts succeeded in saving lives inside the jail. They also unexpectedly revealed a path to save money while curing longstanding understaffing and crisis-level mandatory overtime. The report concludes with an evaluation of the jail's efforts to prevent and manage outbreaks as the pandemic progressed, and the resulting isolation those measures created for the jail's incarcerated inmates.

METHODOLOGY

Members of the Grand Jury visited the MADF in February 2021 and met in person with senior staff, managers, correctional deputies, and medical personnel. Jurors also interviewed over a dozen County executives, political leaders, and staff members from the Department of Health Services (DHS), Risk Management (a division of the Sonoma County Human Resources Department), and the Sheriff's Office. Additionally, the jurors met with the jail's medical provider, Wellpath, and interviewed a diverse group of people incarcerated in different housing modules at the MADF.

Grand Jurors reviewed the booking and intake process: the medical, dental, and mental health services; the grievance filing and appeal process; the visitation policies; internal administrative reports; internal organization emails, documents, and meeting minutes; local and national newspaper coverage; academic studies; prior Grand Jury reports; and extensive State and County statistical data.

DISCUSSION

The Sheriff's Office Detention Division, with a staff of over 285 employees, operates the County's two detention facilities, the medium/maximum security MADF, and the minimum/medium security NCDF. The Detention Division's overall mission is to provide "a secure, safe, and humane environment for both the staff and inmates." To support that mission, the Sheriff's Office has identified a group of specific goals, including:

- Offering inmates an opportunity for rehabilitation through participation in religious, educational, recreational, vocational, and work programs
- Releasing inmates back into the community in better condition medically and psychologically than when they came into custody
- Fostering a custodial environment that supports positive inmate behavior and provides discipline for misconduct

These goals are not simply website rhetoric. The detention staff believes achieving these goals will result in a more orderly jail and less recidivism. The efforts to mitigate the spread of COVID in the jail, however, required an approach that emphasized isolation, a policy that worked against the stated goals above.

For the last decade, we have seen the county's incarcerated population rise to around 1,150 people on any given day. During that period, there were few, if any, days in which the staff to population ratio was sufficient. Even with the Sheriff's Office \$74 million annual detention budget, there are always more needs. The Sheriff's Office cannot grow the detention staff to meet the relatively constant need of 1,150 incarcerated people every day without a significantly higher budget, an unrealistic near-term possibility. Because reducing the incarcerated population in any meaningful way has also been unrealistic, the Sheriff's Office has relied on the only alternative: crisis-level mandatory overtime to make up for chronic understaffing.

The COVID Pandemic Forced an Immediate Change in Incarceration Practices at MADF

Incarcerated people, and those who work in jails, are among those most at risk of contracting COVID. In the early days of the pandemic, detention centers and nursing homes defined the initial phase as their infections and deaths began to climb rapidly across the country. While strict protocols were ultimately sufficient to protect many nursing homes, the most efficient way to prevent mass casualties in jails and prisons was to let inmates out, reduce populations, and stop visitations.

After COVID began to spread rapidly through the County in March 2020, officials quickly realized that the detention facilities presented an acute risk for an outbreak. They were able to shrink Sonoma County's incarcerated population 44% in less than three months. Although the numbers have trended up and down again as COVID continued to grip the County through 2020 and early 2021, countywide law enforcement officials maintained a significantly lower jail population, keeping it below 800 for the longest period in years.

Sonoma County was not alone in trying to reduce its incarcerated population quickly. Most California counties went through the same exercise. However, Sonoma County took a more thorough and tightly coordinated approach to the problem, succeeding while others in similar communities failed. Sonoma County had reduced its jail population by 44% heading into the end of May 2020. Of the 18 counties that were jailing over 900 people on February 29, 2020, only San Mateo County (47%) and Orange County (45%) had reduced their populations more than Sonoma County.

District Attorney and Public Defender Agree on Unprecedented Release

Like most County jails, the MADF houses more pretrial detainees—those awaiting trial—than people convicted of a crime. Many of these pretrial detainees do not represent a threat to public safety, but the pre-COVID criminal justice system required them to await trial inside the jail instead of at home. In March 2020, the District Attorney and the Public Defender took a step back from the adversarial roles our Constitution requires them to play. Instead of vigorously opposing each other on every case, they worked together on a novel project: identifying hundreds of people currently in our jails who they could safely release. The County's top prosecutor and top defender reviewed every file, conferred, and ultimately agreed to recommend release for over 300 people. Given the COVID-related risks inherent in the crowded detention facilities, they agreed that releasing hundreds of people protected public safety more than keeping them incarcerated.

Zero Cash Bail

It is no exaggeration that the entire Sonoma County judicial system mobilized to prevent an obvious crisis from expanding further. Cash bail, the practice of requiring an accused person to post a scheduled amount of money or face the prospect of awaiting trial in jail, results in more crowded jails. Requiring bail for minor offenses simply results in more poor people in our jail. The Judicial Council of California and the California Supreme Court identified cash bail as a key impediment to reducing the incarcerated population across the State. As a temporary response to the COVID pandemic, the Judicial Council reduced to zero all bail requirements across California for misdemeanors and nonviolent, nonsexual, less-serious felonies.

The Sheriff Effectively Led a Countywide Change in Policing

Any gains realized from a reduced incarceration population would last only a few months if the flow of new bookings into the jail did not slow down at the same time. While the Sheriff has to deal with overcrowding and understaffing on the detention side of his department, he also has the authority to control the number of people admitted to the jail. We have just never seen that authority used so effectively. Without the Sheriff's leadership and consistent effort to bring his own deputies and other County law enforcement officials along, the effort to maintain a lower incarceration population would have failed after the initial dramatic drop.

This is precisely what happened in [270 other counties across the country](#). They, like Sonoma County, reduced their jail populations at the beginning of the pandemic. Arrest protocols, however, did not change and the flow of people into those jails continued in the same way they did before COVID struck. Those counties that chose to stay with their pre-COVID policing guidelines saw a return to their pre-pandemic elevated numbers by summer.

However, as with the District Attorney and Public Defender, the Sheriff understood the community threat and led a deeply coordinated interagency effort to maintain the lower incarceration population to prevent our COVID numbers from climbing further. The Sheriff ordered his patrol deputies to emphasize citation over arrest whenever possible. That is, whenever the offense does not rise to the level of requiring incarceration to protect public safety, deputies should issue a citation instead of booking. This arrest reduction approach extended to every corner of the County after the Sheriff requested local police departments to follow his lead. The combined countywide partnership prevented outbreaks in the detention facilities that could easily have spread throughout the wider community.

March 2020 – State Covid Mitigation Guidelines Issued

In March 2020, State regulators quickly updated guidance for local jails to implement temporary changes in an effort to minimize the potential for exposure. In a jail, that means limiting contacts from outside and limiting contacts inside between incarcerated people by minimizing out of cell activity. The Sheriff's Office adopted the same set of temporary changes as most California county jails, suspending:

- Out of cell activity
- In-person visitation
- Educational and other rehabilitative programs
- Religious Observances

The early months of the COVID pandemic showed strong coordination as the interagency group tried to adapt the jail's procedures to meet the coming challenge. The Sheriff's Office reacted very early to the COVID threat and worked with the County's risk management professionals and DHS to modify its intake procedures. DHS provided guidance as early as March 5, 2020, well before the World Health Organization declared COVID to be a pandemic.

Using the only tools available at the time, the Sheriff's Office started using touchless thermometers to begin checking all staff and new arrestees upon entry to the jail. As testing became more widely available, DHS and the Sheriff's Office modified the jail's intake procedure further. Still in place as of March 2021, the jail staff screens everyone for COVID before they enter the main housing modules. After booking and a 7-10 hour waiting period, the new resident quarantines for the first four days while awaiting the results of a COVID test. During that period, the Sheriff's Office allows no mixing with other incarcerated people.

As of the time of writing, the newly incarcerated person spent less than one hour per day out of his or her cell.

Isolation For Those in Quarantine

When the COVID mitigation procedures fail and someone tests positive inside a MADF housing module, as occurred in December, the Sheriff's Office locks down the module and uses it to quarantine COVID-exposed incarcerated people. Each person assigned to the unlucky quarantined housing module loses valuable out-of-cell activity time.

Reacting to outbreaks and positive tests by isolating everyone potentially exposed for an extended period may be effective, but by doing so, the isolation stresses and frustrates the jail's self-described mission to provide "a secure, safe, and humane environment" Extended isolation during the course of the pandemic has been the subject of many complaints, formal grievances, and two hunger strikes. Additionally, outside sources note the results of extended isolation.

Brie Williams, a physician at the University of California, San Francisco who runs a program called AMEND, which works with prisons on solutions to public health problems, says a medical quarantine inside prisons, along with widespread testing, treatment and isolation, makes sense. She says these need to be temporary measures though, not drawn-out lockdowns.

"There is really a long legacy of prisons turning to lockdown in the face of public health problems, so there's always a concern that once the system is sort of used to one mode of controlling people, that that will continue."

The amount of time incarcerated people could spend outside of their cells dropped significantly when COVID restrictions were introduced.

In January 2020, for example, a person assigned to G-Module received just under three hours per day of out of cell activity. That is enough time to complete a tablet course, take a shower, make a phone call, eat, and talk to some other people if the timing works out and the lines are not too long. Additionally, that person could be involved in Alcoholics Anonymous or Narcotics Anonymous meetings, attend educational and other rehabilitative programs, or have in-person visitation.

In January 2021, the jail responded to a COVID outbreak by quarantining everyone potentially exposed, including everyone who was then living in G-Module. As a result, all of those unlucky people lost their normal OCA time. While in quarantine for weeks, the G-Module residents received less than 30 minutes each day outside their cells.

Module	Group ¹	Daily Average Out-of-Cell Time	
		January 2020	January 2021
D-Module	A	3 hrs. 7 mins.	47 mins.
G-Module	Top Tier	3 hrs.	28 mins.
G-Module	Bottom Tier	2 hrs. 50 mins.	27 mins.

Figure 1

Just about every new detainee spends their first four days after booking in A-Module, isolated in a cell. For those first four days, out of cell time is restricted severely. In January 2021, for example, A-Module allowed newly incarcerated people less than 20 minutes per day out of their cell.

Medical experts say this [isolation should be tempered](#)² with mitigating activities:

...People in quarantine or medical isolation should have enhanced access to resources that can make their separation psychologically bearable—for example, television, tablets, radio, reading materials, and means of communicating with loved ones—since they are enduring isolation for the greater good, not for punishment.

The Jury found no evidence that DHS or the Sheriff’s Office spent any time collaborating on a solution to the increased isolation required by their COVID mitigation strategies.

Similarly, the continued suspension of most education and rehabilitative programs since the pandemic began to affect the incarcerated population³. Those who regularly attended the jail’s Alcoholics Anonymous meetings, for example, have had no alternatives for over a year. These were challenges, but there have been solutions available for months. Each housing module has its own outdoor exercise area accessible only from the module. Transparent walls surround the exercise area, but the space is open at the top. While unthinkable at the start of the pandemic, we now know that people can safely gather in such open-air spaces so long as the participants maintain sufficient distancing and wear masks.

¹ Detention deputies allow OCA time by groups to limit the number of incarcerated people in the common area at the same time. The general housing modules have two tiers with different schedules. Typically, the top tier will receive OCA time while the bottom tier remains confined. Other times, detention deputies will manage smaller groups for OCA time depending on security classification, mental health status, and other factors.

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7338113/>

³ The Sheriff’s Office [offered over 4,500 classes](#) before it shut down most programming after the pandemic-induced changes. “The programs provide evidence-based programming shown to reduce recidivism. We collaborate with community-based organizations to provide programs, anger management, creative conflict resolution, drug and alcohol counseling, job and life skills, literacy, parenting, mental health, and religious/spiritual studies.” They did continue “some minimal programming” through correspondence and tablets.

Vaccination and Surveillance Testing Work When Enough Participate

Nursing home residents, farm workers, and those who live and work in our jails and prisons experienced some of the worst COVID outbreaks and suffered many of the worst COVID death tolls. Vaccinating these populations not only protects the most vulnerable County citizens, it serves to protect the wider community. Vaccinating where virus spreads the fastest, therefore, most efficiently protects everyone.

In a closed environment like the County jail, being able to test regularly those working and living inside is a key tool for identifying and containing COVID outbreaks. DHS and the Sheriff's Office collaborated to prevent COVID-positive people from the outside coming in to the jail and infecting anyone inside. Because those intake procedures are not foolproof, however, the jail began testing both staff and incarcerated people (who chose to participate) from various parts of the jail on a weekly basis. By regularly conducting this surveillance testing of those still at risk for infection, the staff could isolate an outbreak before it spread widely.

DHS Prioritized the Vaccinations of Jail Staff Over Incarcerated Residents

The Centers for Disease Control (CDC) provides [clear guidance for vaccine priority when it comes to detention centers](#)⁴, applying the same logic as it did for nursing homes:

*Jurisdictions are encouraged to vaccinate staff and incarcerated/detained persons of correctional or detention facilities **at the same time** because of their shared increased risk of disease. Outbreaks in correctional and detention facilities are often difficult to control given the inability to physically distance Vaccinating staff and incarcerated/detained persons at the same time may also be more feasible than sequential vaccination of correctional or detention subpopulations.*

Some counties followed CDC guidelines and offered vaccinations to the entire jail population. Santa Barbara County was one example, applying the same nursing home standard by offering vaccinations to its jail staff and incarcerated populations at the same time. Likewise, Alameda County focused its jail efforts on getting everyone in the building vaccinated as soon as possible.

In Sonoma County, by contrast, the Sheriff's Office advocated for the vaccinate-all approach, but DHS, with limited vaccine supply, opted to follow the California Tier System. As a result, the Sheriff only vaccinated willing correctional deputies and staff, leaving those in their cells vulnerable.

The Sheriff's Office offers its staff voluntary testing on a weekly basis. Because the surveillance-testing program is voluntary, the results may not accurately reflect the extent of COVID infection among the jail staff. The more people who participate in surveillance testing, the more likely the jail can identify and isolate an outbreak quickly before it spreads. Conversely, the fewer people who choose to participate, the less likely the jail staff can identify and isolate a new outbreak. After the Detention Division staff received their COVID vaccinations in February 2021, the surveillance testing participation dropped significantly. The

⁴ <https://www.courts.ca.gov/opinions/documents/S247278.PDF>

danger of an outbreak remained, however, for all of the incarcerated people and over 90 staff members who had the opportunity to be vaccinated and opted not to take it.

The Sheriff’s Office believes it cannot make COVID vaccination or testing mandatory for the jail staff because of provisions in the Detention Division deputies’ union contract and thus both are still voluntary. Despite the very real and ongoing public health risk, no reasonable accommodation has been found. If the Sheriff’s Office cannot make COVID vaccination a requirement for all staff working in the jail, as it does with tuberculosis, and as a few other employers can with COVID, it should find a way to conduct weekly surveillance testing of all unvaccinated staff. Continuing to assign staff to the jail who refuse a vaccination and refuse to participate in regular surveillance testing exposes the jail and the wider community to an unnecessary outbreak risk.

The Outbreak

On December 22, 2020, the MADF began to experience its first major outbreak. By early January 2021, 24 staff and incarcerated people had tested positive. The Jury found little concrete investigation into the jail’s largest outbreak by either the Sheriff’s Office or DHS. During several interviews, the Grand Jury learned that it may have been caused by either a janitor or an outside food vendor who inadvertently started the outbreak in the kitchen. As of March 2021, the number of COVID cases in the jail included over 80 incarcerated people and at least 28 correctional deputies and staff. Most of those were individuals who came into the jail with the virus and, after the revised intake system identified their COVID infection, recovered in quarantine.

2021 Results/Review

As a result of the dedication and hard work of the District Attorney, the Public Defender, the Sheriff, local law enforcement agencies in the County, and the Presiding Judge, the County’s incarcerated population has remained below 800 since the pandemic began.

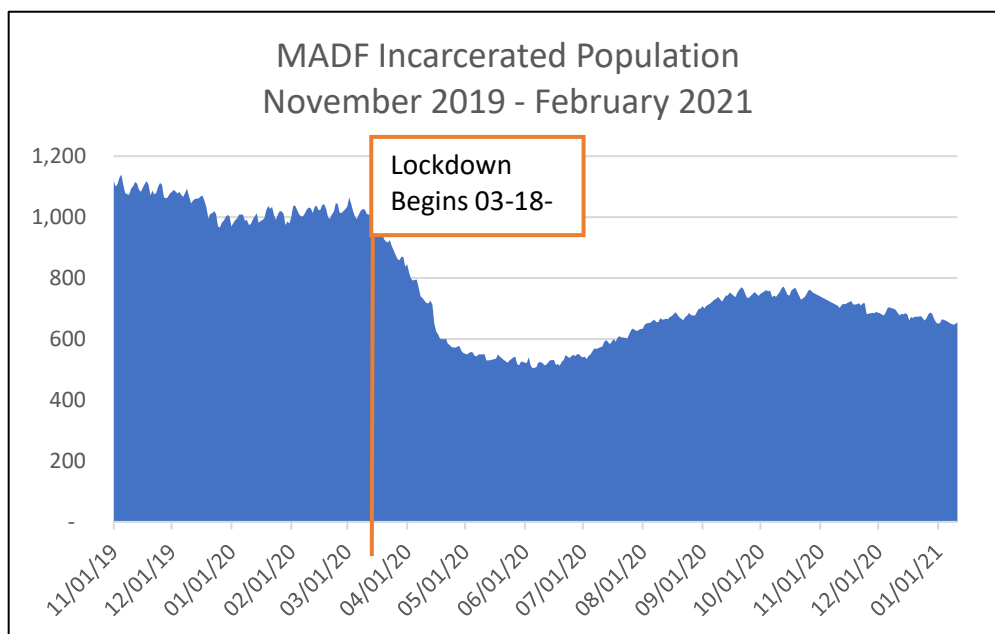


Figure 2

Vaccinations

As of the middle of February 2021, approximately 70% of the jail's staff—everyone who wanted one—had received their COVID vaccinations. By the middle of March 2021, the inmates at the MADF were still waiting. Some qualified under the general community standards because they were 65 years or older or because they had specific health conditions that made them more vulnerable to the disease, but were still unable to receive a vaccination.

In addition to the obvious human risk, there is a very real liability risk should another major outbreak in the jail turn deadly. The Sheriff's Office prepared and updated a vaccination priority list for all incarcerated MADF residents, based on age and relevant co-morbidities. They have been ready to go since early February 2021. The problem at that time was finding vaccine and prioritizing everyone at risk in the jail, not just those who work there.

In late March Wellpath, the MADF's health provider, obtained vaccines for 50 inmates and by Mid-April 2021, the number had increased to 200. This issue should resolve itself as vaccines become available to all residents.

Impact of Releasing Inmates-The County Saves Money

There will always be anecdotal evidence to the contrary, but the statistical trends do not lie. Keeping the incarcerated population under 800 for the longest extended period in years, in addition to saving lives inside the jail, brought the mandatory overtime hours for each correctional deputy down from 72 hours per month to eight. The County is saving money, the jail staffing is adequate, and reports of criminal incidents in the County continue to decline.

The last year has demonstrated that our law enforcement officers do not need to fill the jails back to previous levels to prevent more crime. Over the last ten years, the Sheriff's Office tracked the number of criminal incident reports logged each day across the County. These numbers, depicted below, include reports generated in one of two ways: (1) when a citizen reports a crime and a deputy has substantiated that a report is necessary; or (2) a deputy has witnessed a crime in progress.

Sonoma County has seen a gradual decline in criminal incidents since 2009. The trend continued without interruption even after we released hundreds of people in the spring. As populations in our County jail dropped dramatically between March and May 2020 and then leveled off at their lowest consistent levels in a decade, we did not experience any corresponding leap in the criminal incident reports.

By November 2020, the population had come down enough that the Sheriff's Office closed the NCDF and moved the remaining incarcerated people held there to the MADF. Consolidating the detention deputies and staff in one location saved money and reduced the overtime requirements further. The Sheriff's Office also saves approximately \$400,000 per month while the NCDF remains closed. While much of the Sheriff's actual spending remains opaque to the public, it did very specifically disclose how much it expected to save in the first six months of lower jail populations.

As part of the 2020-21 [budget hearing process](#)⁵, the Sheriff’s Office identified almost \$3,000,000 that it would save because of an expected six-month pandemic related drop in jail population:

Reduced Detention division expenditures, such as overtime, contract services, and supplies, due to modification of jail operations for a six-month period to align with a low inmate population. (\$2,973,418)

That was for six months, but the low population has remained steady for over a full year, putting the actual savings more in the range of at least \$5 to \$6 million, about 8% of the detention budget. As of March 4, 2021, the MADF was the only operating adult detention center in the County and it held an incarcerated population of 662 people, well below its present capacity of 800 beds. The NCDF remains closed.

Figure 3 shows how all of the concerted efforts to lower the incarcerated population worked starting in early March 2020. Viewing the dramatic drop in jail population over the last year, however, does not adequately explain just how unique the effort has been. Looking back a decade, the pandemic response to our jail population begins to take on some context.

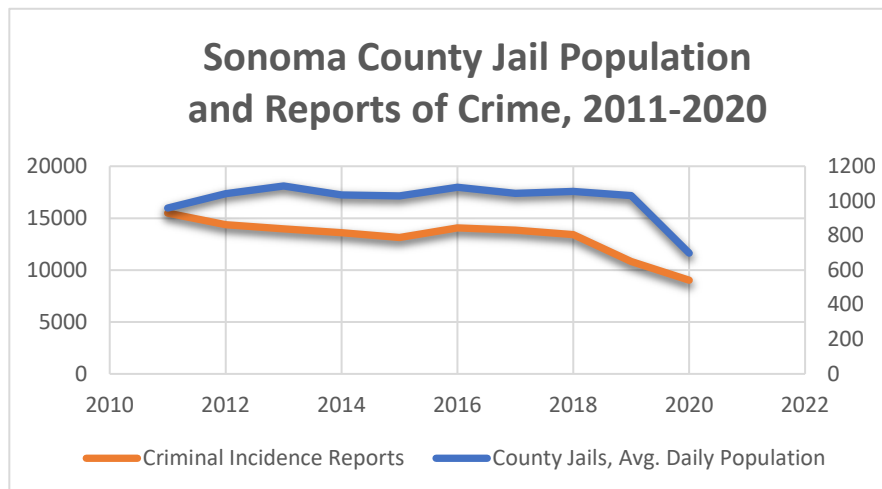


Figure 3 – *Source:* Sonoma County Sheriff’s Office Incident Data

County data continues to show that the jail population has remained below 800 since April 2020, without any corresponding increase in crime.

Zero Bail

While the Judicial Council’s temporary order lapsed over the summer, and some counties chose to re-impose the old cash bail system, the Presiding Judge of the Sonoma County Superior Court ordered the continuation of zero cash bail other than for serious felonies.

In November 2020, California voters rejected Proposition 25, which would have eliminated cash bail statewide. In Sonoma County, however, a clear 55% majority supported the measure. As her counterparts in San Francisco and Los Angeles have demonstrated, the District Attorney has

⁵ <https://tinyurl.com/b82cab7a>

the unilateral power to end the use of cash bail for misdemeanors and less serious felonies in the County. She has not had to ask for bail in these minor offense cases for over a year.

On March 25, 2021, the California Supreme Court issued a landmark ruling in the case of [In re Humphrey \(2021\)](#). In a unanimous ruling, the court found merit in the petitioner's argument that no person should lose the right to liberty simply because that person cannot afford to post bail and further stated that cash bail for the indigent population is unconstitutional. It remains unclear whether implementation of the Court's decision will effectively make permanent the Presiding Judge's zero cash bail schedule.

In-Person Visitation at MADF Remained Possible

Although the visitation booths closed to the public when the Sheriff's Office suspended in-person visitation, attorneys still used them to meet with their incarcerated clients during the pandemic. It was determined through interviews with County's risk management professionals that visits in the existing module booths can be done safely. The booths have a sealed divider between the visitor and the incarcerated person, except for a narrow metal grate. With all participants wearing masks, risk managers felt that there was an insignificant risk of COVID transmission. The Sheriff's Office is confident enough that it does not require attorneys to provide a negative COVID test before entering the visitation booths as it does with all others who enter the jail. Risk management analysts also checked the ventilation and concluded that it is safe to use if they are empty for 30 to 60 minutes between visits.

The Sheriff has announced that as of May 1, 2021, limited visitation will resume. The visits are restricted to one visit per inmate per month, no more than two visitors at one time, and visits cannot exceed 60 minutes. The visitors must have reservations, wear masks, undergo mandatory temperature checks, and complete COVID screening. Although not stated on the MADF website, the Press Democrat reported on April 25, 2021 that the number of visitors would be limited to 132 per day. The jury believes that this allowed visitation is too little to relieve the year's absence of visual communication and believes the jail needs to initiate free video visits as soon as possible.

Video Visits

The Sheriff consults regularly with his counterparts across the State in a monthly meeting where they share best practices. The Detention Division filed its pandemic-mitigation suspension plans with State regulators, which in turn promptly published Sonoma County's plans alongside other counties' efforts. A quick review of the [Bureau of State and Community Corrections \(BSCC\) chart](#) shows that many counties implemented enhanced video visits or other communication services to make up for the lost in-person visits. Stanislaus County, for example, is comparable to Sonoma County in overall population, jail population, and the Sheriff's Office budget size. Both county jails implemented the same suspensions of in-person visitation and other programs that require close gatherings. They differed, however, in how the two Sheriff's Offices addressed the impact of those suspensions.

Sonoma County has a contract with Global Tel Link to install additional technology and implement video visitation, first at the NCDF, and then at the MADF. The Sheriff's Office has not modified, expanded, or expedited the video visitation rollout for over a year. By contrast, Stanislaus County procured tablets to offset lost programs, and offered video visitation. In

Monterey, another comparably sized and resourced county, the Sheriff's Office provided additional non-contact visitation, unlimited mail and messaging, and free phone calls to make up for the lost in-person visitation.

Finding a suitable replacement for in-person visitation did not become a priority until 2021. During the prior year, the Sheriff's Office addressed many grievances about the lack of visitation; managed two separate hunger strikes seeking, among other things, more contact with the outside world; and received pressure from the Independent Office of Law Enforcement Review and Outreach (IOLERO) to make more communication services available. Although IOLERO typically addresses long-term investigations of critical incidents and individual complaints, the organization was instrumental in moving the Sheriff's Office in February 2021 to provide 10 minutes of free telephone time daily. By the middle of March 2021, talks with the vendor about video visitation at the MADF had finally begun, but as of the writing of this report, there have not been changes to the communication services available to inmates.

The Jail Needs More Discharge Planners

There is currently one discharge planner, a social worker responsible for linking discharged inmates to medical, behavioral health, and social services in the community. The lone discharge planner only works with the 45% of the jail population who are eligible to receive behavioral health services. The remaining 55% of the jail population have no designated discharge planner to assist them when they leave the jail and return to the community. In the context of COVID, when the jail staff receives an order to release an inmate, even if the inmate is COVID positive, they receive no services from a discharge planner unless they are also a Behavioral Health client. The jail must process their release without regard to health status. In some cases, the MADF works with County resources to provide a motel gift card if a contagious person has nowhere to quarantine.

With over 400 cases, the behavioral health discharge planning workload is grossly understaffed. People fall through the discharge planning gaps every week and nobody credibly suggests otherwise. The jail must continue to release people every day, as mandated by the court, whether or not they are sick and whether or not they have a place to sleep when they leave. It is worth repeating that over 40% of the people in the jail are homeless, and over 45% suffer from some form of mental illness. Add COVID to the equation, and the discharge situation moves from dire to crisis, both for the individuals affected and for the health of the entire community.

The focus of this report is on COVID mitigation and the impact of mitigation efforts taken to date, and an analysis of the function and adequacy of discharge planners is beyond the scope of this investigation. It is nevertheless notable that California courts are beginning to assign responsibility to jails for the discharge planning process. For example, if the Sheriff's Office releases a COVID-positive homeless person without a post-discharge quarantine plan, the County may face legal liability for the consequences.

To put this in context, and without investigating or reporting on any function outside the jail, many County employees remain involved with those released. In addition to the Probation Department, there are often social services needed to aid in reintegration to the community. The discharge planner should be able to interact with an inmate immediately upon incarceration to discuss not only what programs and services the inmate should utilize while in custody, but how best to reintegrate upon release. The inmate and discharge planner should have a plan whereby

the inmate has access to prescription medication needed for the next 60 days, access to medical care, at least to be able to renew prescriptions, as well as access to safe and sane living environments or rehabilitation treatments if needed.

Adding more discharge planning resources will not just reduce potential legal liability. A study of the [San Francisco County Jail](#) found that those who were HIV-positive at release were six times more likely to have unbroken continuity of care when they rejoined the community with the aid of a discharge planner. Better continuity of care means fewer crisis management needs and ultimately less cost for the County. Assigning more resources to discharge planning will also help to lower the recidivism rate and keep the incarcerated population below 800, which is 100% capacity for the MADF. Those who find themselves working with support services rather than living on the street the day after release are much less likely to see the inside of our jail again.

During a pandemic, failing to staff the discharge planning function fully at the jail exposes the entire community to elevated health risks. The Grand Jury learned through interviews that a number of COVID-positive inmates were discharged from the jail without a quarantine plan. Using discharge planners to make appropriate quarantine arrangements when needed would reduce the public health risk.

The current contract with Wellpath requires it to staff one discharge planner position. With the current population of the jail, expanding that Wellpath program to a minimum of five discharge planners would be appropriate for the size of the current caseload. The Jury found no dissent across the County that the jail needs at least four more discharge planners at the MADF if the population remains at the current level. Even then, the workload would be heavy, but the jail could have 24-hour coverage for the first time so that individual unplanned releases would not fall through the coverage gaps that exist now.

CONCLUSION

Sonoma County's detention facilities have seen no deaths from COVID and have not transferred any cases to a hospital. These positive outcomes resulted from unprecedented coordination and partnership across the County to reduce the incarcerated population quickly after COVID began to spread, and from the Sheriff's Office timely implementation of measures designed to limit contagion in the jail.

Now the Sheriff's Office and Wellpath need to collaborate to better adapt the jail's policies and procedures, both to prevent outbreaks and to relieve the isolation and limited activity that have resulted from the jail's mitigation and quarantine procedures. Keeping everyone safe was the first critical priority, but after more than a year, the Sheriff's Office and Wellpath must focus on improving living conditions in the jail, especially the isolation and lack of communication with the outside world.

By continuing efforts to keep the incarcerated population at or below the levels we experienced during the pandemic, the cost savings will be more than sufficient to defray some of the jail's longstanding and troubling problems, including the lack of sufficient visiting options, the insufficient number of discharge planners, and unsustainable amounts of mandatory overtime for correctional officers.

The Jury recognizes that fast-moving developments in the fight against COVID may overtake some of its Recommendations. The Jury is hopeful, for example, that everyone who works or sleeps in the County jail is vaccinated by the time this report is published. With the potential for variants and the likely need for booster vaccinations, however, the Jury believes its Findings and Recommendations remain valid and relevant.

COMMENDATIONS

- The Jury commends the District Attorney and the Public Defender for their cooperative approach to reducing the County's incarcerated population to mitigate the spread of COVID-19.
- The Jury commends the Sheriff's Office for leading the effort to change policing policies throughout the county to maintain the reduced jail population.
- The Jury commends Independent Order of Law Enforcement Review and Outreach for being responsive to inmates' concerns and prompting the Sheriff's Office to begin providing inmates with 10 minutes of phone time each day.

FINDINGS

The Sonoma County Civil Grand Jury determined that:

- F1. Sonoma County did not suffer the COVID infection and death rates in its jail that other counties did, in large part because of its success in reducing the size of the jail population.
- F2. Without the extraordinary cooperation between the Sonoma County District Attorney, the Sonoma County Public Defender, and the Sheriff, the incarcerated population would not have dropped dramatically early in the pandemic and remained at historic low levels for more than one year.
- F3. The reduction in the size of the County's incarcerated population resulted in a substantial reduction in Sheriff's Office Detention Division overtime.
- F4. Keeping the incarcerated population at or below 800 people would save the County between five and six million dollars every year.
- F5. The Sheriff's practice of issuing citations rather than arrests for misdemeanors and non-violent felonies has helped prevent the MADF population from increasing.
- F6. The Implementation of the Zero Cash Bail Initiative has helped to prevent the MADF population from increasing.
- F7. The Sheriff's Office and Department of Health Services failed to collaborate in order to alleviate the isolation and reductions in programs that were imposed on the incarcerated population to mitigate health risks.
- F8. The Sheriff's new policy of inmate visits limited to once per month starting May 1, 2021 is insufficient to relieve a year's absence of visual communication with friends and family.
- F9. Allowing jail staff and inmates to refuse testing and vaccination creates a risk to public health.

- F10. Discharge planners could play an indispensable role in preventing the spread of COVID-19 between the jail and the community.
- F11. Adding at least four new discharge planners at the Main Adult Detention Facility would contribute to lowering the recidivism rate and therefore play a key role in maintaining a lower incarcerated population

RECOMMENDATIONS

The Sonoma County Civil Grand Jury recommends that:

- R1. The Sheriff's Office develop, no later than September 1, 2021, a policy to restore out of cell activity, in person and video visitation, and all programs to pre-pandemic levels. (F8)
- R2. The Sheriff's Office implement 30-minutes of video visits per week by September 30, 2021, and continue until it fully restores in-person visits to their pre-pandemic levels. (F7, F8)
- R3. The Sheriff's Office should continue the pandemic-era policies favoring citations over arrests. (F4, F5)
- R4. The Sheriff's Office and the Board of Supervisors work together to develop a plan by December 31, 2021 to increase the contracted Wellpath resources to fund four additional Wellpath discharge planners for mental health and medical assignment to the Main Adult Detention Facility. (F10, F11).
- R5. The District Attorney discontinue cash bail for defendants charged with misdemeanors and non-violent, non-sexual, and less serious felonies. (F6)
- R6. The Sheriff's Office implement a surveillance-testing program and require 100% participation by all unvaccinated jail staff by September 1, 2021. (F9)
- R7. The Sheriff's Office reassign jail staff who decline vaccination or participation in surveillance testing by September 1, 2021. (F9)

REQUIRED RESPONSES

Pursuant to Penal Code §§ 933 and 933.05, the Grand Jury requires responses as follows:

- Sonoma County District Attorney (R5)
- Sonoma County Sheriff's Office (R1, R2, R3, R4, R6, R7)
- Sonoma County Board of Supervisors (R4)

The governing bodies indicated above should be aware that their comments and responses must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

BIBLIOGRAPHY

Hyperlinks for key source material have also been included in the body of the electronic version of the report.

- Sonoma County Sheriff's Office Fiscal 2019-2020, Annual Report, (<https://tinyurl.com/yjocdzs2>)
- 2020-21 Sonoma County Budget, pages 115, 120, (<https://tinyurl.com/b82cab7a>)
- Sonoma County Criminal Incident Report Database, (<https://tinyurl.com/abt3j7w9>)
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- In re Humphrey (2018) 19 Cal. App. 5th 1006 (<https://www.courts.ca.gov/opinions/documents/S247278.PDF>)
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- US National Library of Medicine National Institutes of Health, Medical Isolation and Solitary Confinement: Balancing Health and Humanity in US Jails and Prisons During COVID-19, July 6, 2020 (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7338113/>)
- Wang, E., White, M., Jamison, R., Goldenson, J., Estes, M, Tulskey, J., *Discharge planning and continuity of health care: findings from the San Francisco County Jail*, American Journal of Public Health, Dec 2008 (<https://pubmed.ncbi.nlm.nih.gov/18381994/>)

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.