



San Mateo County jails packed with inmates awaiting trial

By: [Niko Kyriakou](#) | Examiner Staff Writer | 07/20/11 7:28 PM

San Mateo County could free up considerable space in its overcrowded jails by granting more accused criminals bail, according to a new report.

County jails are overwhelmingly filled with people still waiting to go to trial, says the report, which was commissioned by the county manager. Pretrial custody makes up 73 percent of the jail population, 12 percent above the national average. By comparison, pretrial inmates made up only half of the county's jail population 10 years ago, the report says.

The shift reflects a national trend in the “wrong direction,” said Cherise Burdeen, chief operating officer of the Pretrial Justice Institute, the nonprofit group that drafted the report.

This information, which comes as California is poised to move hundreds of inmates from state prisons to San Mateo County, could have multimillion-dollar implications for a county now deciding the size of its new jail. However, county judges and the Sheriff's Department disagree with its findings.

The solution is for the county to revamp how it determines bail, the report concluded.

Currently, prosecutors, defense lawyers and sheriff's deputies attend a bond hearing at which they advise the judge whether or how to release someone accused of a crime. That decision is made based on data such as criminal record, stable residence, employment, drug use and mental health, said presiding Judge Beth Freeman. But the report says such criteria are subjective.

Instead, the institute recommends that judges use “evidence-based risk assessment tools” to predict whether defendants are likely to flee or commit another crime if allowed to go free. Such tools would consider the nature of the current offense and the circumstances of the offense, the court appearance rate of criminals released on similar grounds, and the rate at which defendants released on similar grounds commit new crimes or violate other conditions of their bail bond, such as using alcohol or drugs.

Burdeen said 10 to 15 percent of U.S. counties and all 96 federal districts use pretrial



Doing time: A county-commissioned report could change San Mateo County's decisions on the size of its new jail. (Examiner file photo)

risk-assessment tools, which have helped some counties reduce pretrial inmate populations by a third.

The report notes that Santa Clara County is currently designing a risk-assessment tool, suggesting that San Mateo should collaborate on that project.

Without such tools, critics of the system say, judges are too easily swayed by lawyers. Retired trial lawyer William Barfield said that clients who can't afford good lawyers tend "to get the short end of the stick when it comes to release or bail."

A study done in Baltimore and cited by the Pretrial Institute found that nonviolent, low-risk indigents were 2½ times more likely to be released on their own recognizance and 4½ times more likely to have their bail significantly reduced if they were provided with lawyers.

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Inside, outside

San Mateo County inmate and convict population

Pretrial in custody: 708

Sentenced in custody: 289

Sentenced out of custody: 335

What they were charged with

Felonies: 537

Misdemeanors: 721

Infractions: 2

Source: San Mateo County Sheriff's Department

Officials say prisoners are miscounted

Law enforcement officials say that San Mateo County jails have such a high percentage of pretrial inmates only because the county has done an exemplary job of routing convicted criminals into alternative-sentencing programs.

More than half the inmates sentenced for crimes never go to jail, according to Sheriff's Department data. Instead, they are funneled into programs such as the sheriff's work program, which reduces the overall share of sentenced inmates in the jail population, said Assistant Sheriff Trisha Sanchez.

If one were to include such non-incarcerated criminals as part of the total jail population, then San Mateo County would have one of the lowest pretrial conviction rates in the state, Presiding Judge Beth Freeman said.

Sheriff's Department data supporting that claim show San Mateo County to have the lowest number of pretrial inmates among seven California counties with similar-size jails.

However, Cherise Burdeen of the Pretrial Justice Institute said that even accounting for that, pretrial custody in San Mateo County jails is still 12 percent above the national average.

A 2008 report by DMJM Design and Husky Associates found that San Mateo County ranks No. 1 among 18 jurisdictions in the confinement of pretrial defendants and third for making the fewest releases on non-bail-related grounds.

Only 15 percent of criminal defendants are recommended for pretrial release, and of those, half are denied release, according to the report, which concluded — as did a recent report by the Pretrial Justice Institute — that the county should examine its criteria for pretrial release.

“I’d bet there’s a lot of under-the-hood work than can be done to lower the pretrial inmate population in San Mateo,” said Alexander Busansky, Executive Director of the Commission on Safety and Abuse in America’s prisons.

But Sanchez says the sheriff’s department has done its best to reduce the pretrial population held in jail.

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URL: <http://www.sfexaminer.com/local/peninsula/2011/07/county-jails-packed-inmates-awaiting-trial>