

**CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS**

BUDGET AND LEGISLATIVE ANALYST

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Policy Analysis Report

To: Supervisor Campos
From: Budget and Legislative Analyst's Office 
Re: Analysis of the Proposed County Jail #3 and County Jail #4 Replacement Project
Date: January 22, 2014

Summary of Requested Action

Your office requested that the Budget and Legislative Analyst conduct an analysis of the proposed project to replace County Jail #3 and County Jail #4, which the City plans to close in 2019 as part of the larger program to relocate City agencies from the seismically deficient Hall of Justice. In particular, you requested an analysis of whether the proposed 640-bed replacement jail is in line with current inmate population trends, and an analysis of alternatives to constructing the proposed jail, including expanding the use of alternatives to incarceration.

For further information about this report, contact: Severin Campbell at the Budget and Legislative Analyst's Office.

Executive Summary

The City and County of San Francisco has six jails, four of which are located at or adjacent to the Hall of Justice (HOJ) at 850 Bryant Street in San Francisco (County Jails #1 through #4), and two of which are located in San Bruno in San Mateo County (County Jails #5 and #6). Existing jail bed capacity is 2,515.

The City plans to close County Jails #3 and #4 in 2019 as part of the larger program to relocate the City's public safety departments from the seismically deficient HOJ. The City plans to replace County Jails #3 and #4, which have a combined capacity of 905 beds, by constructing a jail with a capacity of 640 beds near the HOJ, resulting in total County jail capacity of 2,250 beds, a reduction of 265 beds.

The jail population has decreased significantly from 2008 to 2013

The average daily population in the County jails decreased from 2,015 in 2008 to 1,413 in 2013, a decrease of 30 percent. The decrease would have been greater if the State had not implemented Public Safety Realignment, in which responsibility for some State prisoners and parolees was transferred to the counties.

The decrease in the inmate population from 2008 to 2013 has been driven mainly by a decrease in arrests, in particular drug-related arrests, due largely to implementation of law enforcement policies that promote alternatives to incarceration. During interviews with the Chief of Police and District Attorney, both officials concurred that changes in City policies for the arrest and prosecution

of drug-related offenses have contributed to the decline in the inmate population over the last five years.

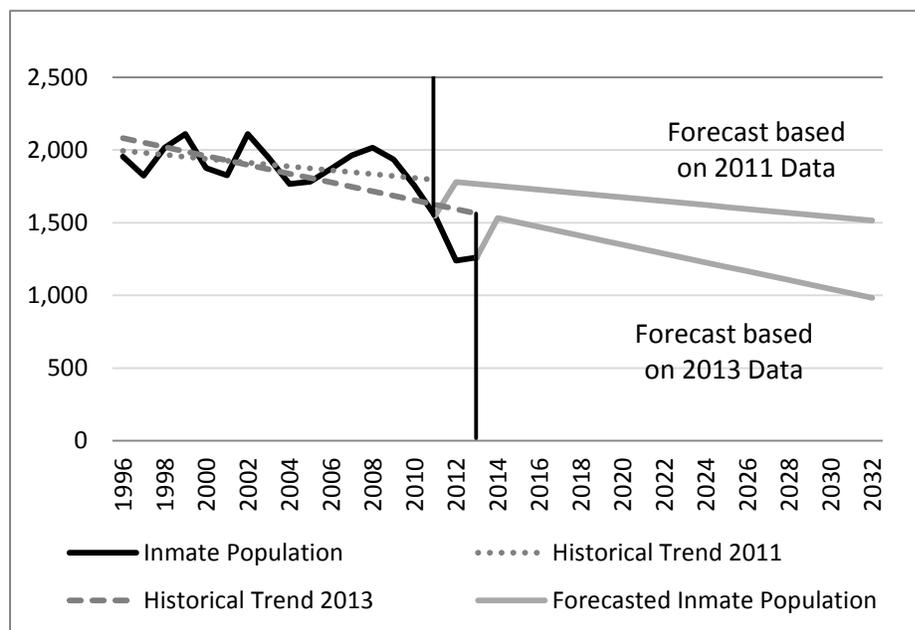
The Budget and Legislative Analyst’s estimate of the required number of County jail beds in 2019 is less than the proposed number

The City’s 2014-2023 Capital Plan provides for 640 replacement jail beds in 2019, resulting in 2,250 total County jail beds. The plan for 2,250 County jail beds is based on the Controller’s *County Jail Needs Assessment*, which forecast an average daily population in the County jails in 2019 of 1,900. To account for peaks in the jail population and the need to assign housing based on gender, pre-trial and sentenced inmates, violent and non-violent felonies, and other factors (classification factors), the Controller estimated the need for 2,091 to 2,298 total County jail beds in 2019.

This estimate was based on historic data from 1996 through 2011. The average daily population in the County jail, including the baseline (non-Public Safety Realignment) and Public Safety Realignment population, continued to decline in the two-year period from 2011 to 2013, as shown in the figure below.

The Budget and Legislative Analyst revised the forecast of the County jail population in 2019 based on updated data from 1996 through December 16, 2013. The revised forecast results in an average daily population of 1,478 in 2019, compared to the prior forecast of 1,900.

Figure: Comparison of 2019 Average Daily Jail Population Forecast Based on 2011 Data and 2013 Data



Based on the Budget and Legislative Analyst’s forecast, the City will require up to 624 fewer jail beds in 2019 than the proposed 2,250 jail beds, as shown in the table below.

Table: Budget and Legislative Analyst’s Estimated Number of Required Jail Beds in 2019

	Moderate Estimate	Conservative Estimate
Baseline Forecast	1,372	1,372
Impact of Public Safety Realignment	106	106
Subtotal: Inmate Population	1,478	1,478
Classification Factor	5.0%	8.2%
Peak Population Factor	4.8%	11.8%
Budget Analyst Estimate	1,626	1,788
Proposed Jail Beds in 2019	2,250	2,250
Reduction in Estimated Jail Beds Compared to Proposed Jail Beds	624	462

The Budget and Legislative Analyst’s forecast of the average daily inmate population in 2019 accounts for the long term downward trend in the baseline population from 1996 through December 16, 2013 and the actual Public Safety Realignment population in 2013. The downward trend in the average daily population is due largely to the increased use of alternatives to incarceration and other law enforcement policies, and San Francisco’s declining population of young adults aged 18 to 35.

Expanding alternatives to incarceration could further decrease the jail population

The City and County of San Francisco has pretrial diversion and alternative sentencing programs with 1,127 participants as of November 8, 2013. In the absence of these programs, the total County jail population on that date could have been 2,394 inmates (compared to 1,267).

According to the Director of the Pretrial Diversion Project, only a small portion of the inmates who are not released from jail under current policies would be considered by most to be appropriate for release based on their flight risk or the risk to public safety. However, the Budget and Legislative Analyst estimates that up to 60 offenders could be diverted or released from the County jail if the District Attorney and Sheriff successfully implement proposed new programs or policies. These programs include:

- (1) Pre-booking and pre-charge diversion programs for low-level drug offenders;
- (2) Increased referrals of misdemeanors to Neighborhood Courts rather than criminal courts; and

(3) Authorization for the Sheriff to approve pretrial release of inmates to an electronic monitoring program, which currently only the Superior Court may approve.

The City should evaluate constructing a smaller replacement jail

The *County Jail Needs Assessment* estimated that the City would need 2,091 to 2,298 County jail beds in 2019, as noted above. Construction of the proposed 640-bed replacement jail would result in 2,250 County jail beds, which is consistent with the *County Jail Needs Assessment* estimates, and includes the proposed replacement jail, County Jail #2 (adjacent to the HOJ), County Jail #5 (the main jail at San Bruno), and County Jail #6 (the dormitory-style, minimum security jail at San Bruno, which is currently closed).

San Francisco could potentially construct a smaller 384-bed replacement jail at the HOJ, without reopening the minimum security County Jail #6. Construction of a 384-bed replacement jail would result in 1,622 County Jail beds, which is only four beds (0.3 percent) less than the Budget and Legislative Analyst's moderate estimate of 1,626 required beds in 2019, shown in the table above.

Construction of the smaller replacement jail would reduce estimated project costs from \$290 million for the proposed 640-bed replacement jail to \$194 million for a 384-bed replacement jail, a reduction of \$96 million or 33 percent.

The City should re-evaluate the appropriate jail size after completion of environmental review

Environmental review of the proposed replacement jail is scheduled to begin in early 2014 and completed in late 2015. At that time, the Board of Supervisors must approve purchase of the property adjacent to the HOJ as a site for the replacement jail, and issuance of Certificates of Participation to fund the jail replacement.

According to the Department of Public Works Senior Architect, the City could reduce the size of the proposed replacement jail after environmental review is completed without triggering a second environmental review.

Because of the continuing downward trend in the average daily jail population and significant savings that could be achieved if the City constructs a smaller replacement jail, the City should re-evaluate the number of replacement beds required in 2019 after environmental review is completed in late 2015, and construct a smaller replacement jail if the average daily jail population remains at its current level or declines further.

I. The Proposed Replacement of County Jails #3 and #4

San Francisco County Jail System

The San Francisco Sheriff's Department operates six jails in San Francisco and San Mateo County, which have a capacity of 2,360 rated beds and 2,515 total beds, as shown in Table 1 below.¹ Two of the jails, County Jail #3 and County Jail #4, are located on the sixth and seventh floors respectively of the Hall of Justice (HOJ) at 850 Bryant Street. County Jail #3 and County Jail #4 have a combined total of 905 (826 rated) beds. County Jail #6, a minimum-security facility, is currently closed.

Table 1: San Francisco County Jails

Name	Location	Opened	Description	Beds (rated)
County Jail #1	Adjacent to HOJ	1994	Intake and release	N/A
County Jail #2	Adjacent to HOJ	1994	Podular housing	466 (392)
County Jail #3	6 th Floor of HOJ	1961	Linear housing	466 (426)
County Jail #4	7 th Floor of HOJ	1961	Linear housing	439 (402)
County Jail #5	San Bruno	2006	Podular housing	772 (768)
County Jail #6	San Bruno	1989	Dormitory housing	372 (372)
TOTAL				2,515 (2,360)

Source: Controller

Hall of Justice Replacement Program

In addition to County Jails #3 and #4, the HOJ houses the Superior Court, the Police Headquarters, the District Attorney's office, the Adult Probation Department, and other City agencies. The City's Capital Plan provides for the replacement of the HOJ due to its seismic deficiencies², funded by three Earthquake Safety and Emergency Response (ESER) general obligation bonds, of which the first series were previously issued and the second series are scheduled to go before the voters in June 2014. The Capital Plan also provides for the City to issue Certificates of Participation (COPs) to fund some HOJ relocation projects, including replacement of County Jails #3 and #4.

According to the City's 2014-2023 Capital Plan, replacement of County Jails #3 and #4 is a high priority. The 2014-2023 Capital Plan provides:

¹ Title 15 of the California Code of Regulations defines rated beds as those that "[conform] to the standards and requirements" of the State. Unrated beds are those that are for health care or disciplinary isolation, or do not conform to state standards. Beds are rated by state or local rating officials.

² Although the City intends to relocate all of its facilities from the HOJ, the Superior Court is anticipated to remain at the east wing of the HOJ indefinitely. After the City relocates its facilities to other locations and the west wing of the HOJ is demolished, the Superior Court may use the vacant land to construct a new, seismically sound building.

“In response to historically low inmate populations in San Francisco and uncertainty around the impact of State realignment of the correctional system, the Plan recommends a two phased approach to replacing the jails. The first phase is a \$290 million facility on adjacent property east of the current HOJ...Funding for the jail is through the issuance of COPs beginning in 2016.

The second phase of the Replacement Jail would add an additional facility on the same property if future forecasts indicate the prison population is likely to increase beyond the current forecasts.”

Although the City intends to relocate all of its facilities from the HOJ, the Superior Court is anticipated to remain at the east wing of the HOJ indefinitely. After the City relocates its facilities to other locations and the west wing of the HOJ is demolished, the Superior Court may use the vacant land to construct a new, seismically sound building.

The Proposed Replacement Jail

According to Mr. Jim Buker, Department of Public Works (DPW) Senior Architect, construction of the proposed replacement jail would commence in January 2017 and would be completed in December 2019.

The jail currently being proposed by the Sheriff’s Department and DPW to replace County Jails #3 and #4 would have 320 cells, with a maximum capacity of 640 rated beds. Table 2 below lists the key features of the proposed replacement jail.

Table 2: Features of Proposed Replacement Jail

Feature	Description
Capacity	320 cells, 640-bed capacity;
Configuration	Rectilinear pods allowing for direct supervision; 8 pods with mezzanines containing 32 cells, 4 single-level pods containing 16 cells
Program Space	Central classrooms; Classrooms, multi-purpose space, and yards for physical activity adjacent to all pods; Contact and non-contact visitation
Area	194,300 square feet; 6 floors including a basement

Source: DPW

Inmates housed in the proposed jail would be transported to and from the HOJ for court appearances through an underground tunnel. According to the Sheriff’s Department and DPW, the ability to transport inmates to and from the HOJ through a tunnel, rather than by vehicle from a remote location, is a major advantage of locating the replacement jail adjacent to the HOJ, both for cost-efficiency and for the safety and security of inmates and staff.

Cost and Financing of the Proposed Replacement Jail

The estimated cost of constructing the proposed replacement jail is \$290,000,000, as shown in Table 3 below.

Table 3: Estimated Project Costs for the Proposed Replacement Jail

Construction	199,500,000
Project Control ⁱ	54,900,000
Site Control ⁱⁱ	30,700,000
Capital Program Contingency	4,300,000
Bond Issuance and Oversight	<u>600,000</u>
GRAND TOTAL	\$290,000,000

Source: DPW

- i. Project control: architectural and engineering, construction management, and project management services, as well as permits.
- ii. Site control: purchase of proposed property, consultant contract expenses related to due diligence, relocation expenses owed to displaced occupants, and demolition.

Under the 2014-2023 Capital Plan, construction of the proposed replacement jail would be financed by the issuance of Certificates of Participation starting in FY 2016-2017. According to Ms. Nadia Sesay, Director of Public Finance in the Controller's Office, the Certificates of Participation would be paid back over a period of 23 years ending in FY 2036-37, resulting debt service costs to the General Fund of \$629,610,125.

Environmental Review and Final Approval of the Project

Environmental review of the proposed replacement jail is scheduled to commence in early 2014 and be completed in late 2015. At that time, Board of Supervisors approval of the property acquisition and issuance of Certificates of Participation would be required for the project to proceed.

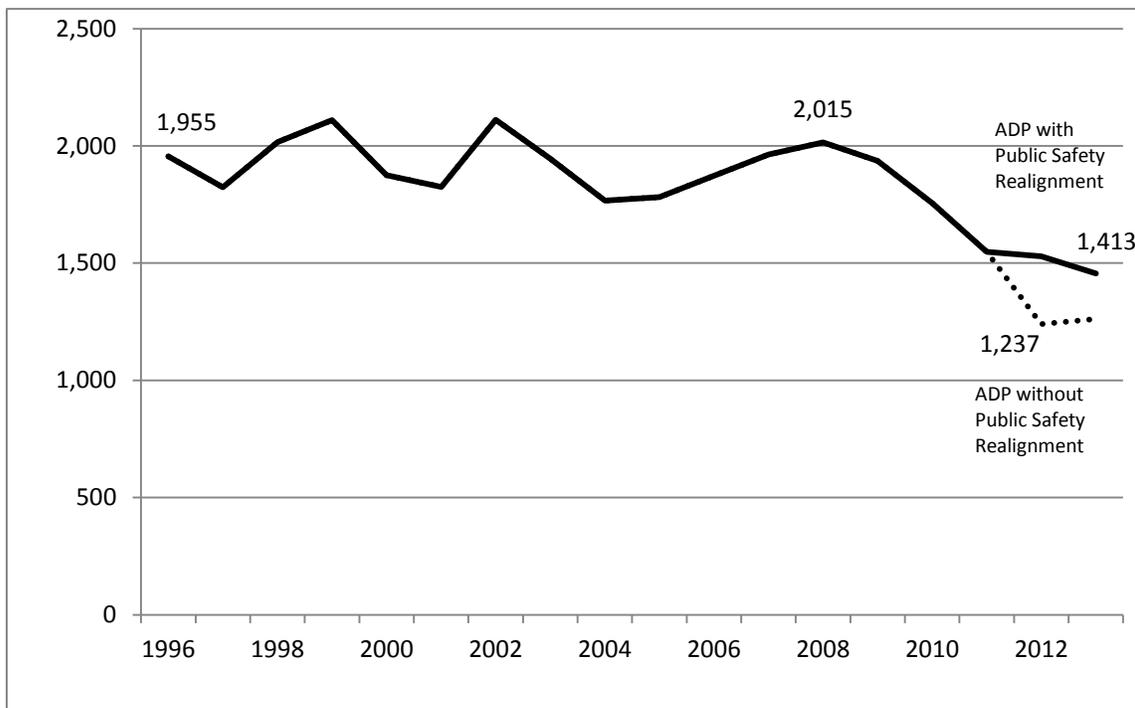
In order to perform the environmental review, DPW will submit a preliminary project assessment to the Planning Department defining the size and bed capacity of the proposed replacement jail. According to Mr. Buker, the City could reduce the size of the proposed replacement jail after environmental review is completed without triggering a second environmental review, as the environmental impacts of a smaller building would be less than those of a larger building; however, the City could not increase the size of the proposed replacement jail after environmental review is completed without triggering a second environmental review. Mr. Buker therefore advises that the City should conduct environmental review of the largest possible building that the City could decide to construct. After environmental review, the City would have the ability to reduce the size of the proposed replacement jail without triggering a second environmental review.

II. Forecasting the Future Inmate Population

Decrease in San Francisco's Jail Population

San Francisco's County's jail population decreased significantly between 2008 and 2013, as shown in Figure 1 below.

Figure 1: Decrease in the County Jail Average Daily Population (ADP) from 1996 to December 16 2013



Sources: Bureau of State and Community Corrections (BSCC), Sheriff's Department

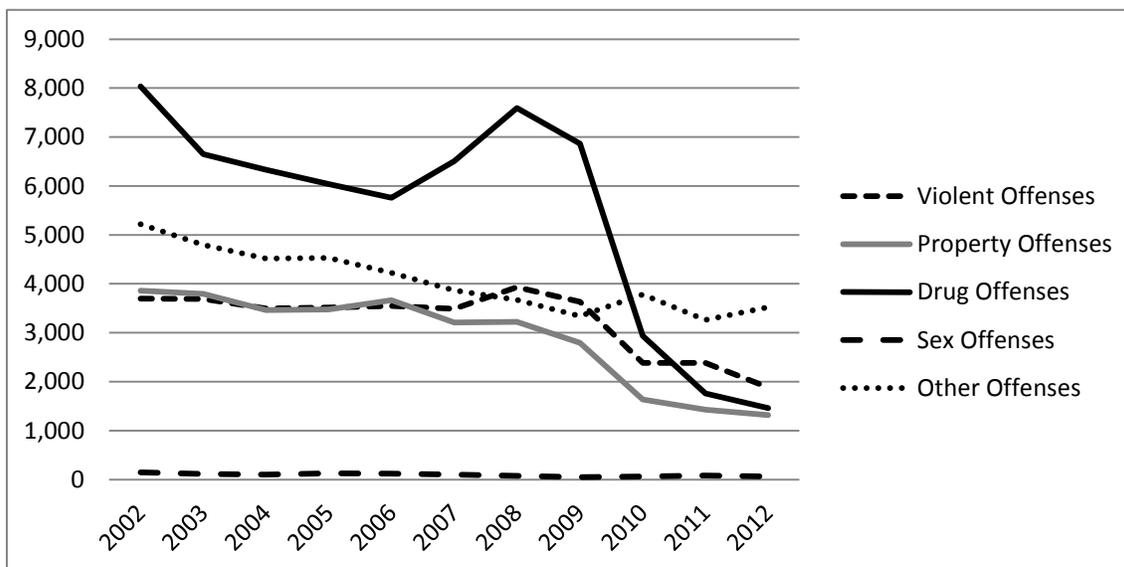
The decrease in the average daily inmate population in the County jail in 2012 and 2013 would have been greater if the State had not implemented Public Safety Realignment, in which responsibility for some State prisoners and parolees was transferred to the counties. As shown in Figure 1 above, in the absence of Public Safety Realignment, the average daily inmate population would have been 1,237 in 2013.

Impact of Decreased Arrests on the Jail Population

The decline in the inmate population from 2008 to 2013 correlates to a decrease in the number of felony arrests, particularly arrests for drug-related offenses. Figure 2 below shows the annual number of felony arrests in San Francisco by category of offense from 2002 to 2012 (the most recent year for which arrest data is available). Table 4 below shows the annual number of felony arrests by category

of offense from 2008 to 2012, as well as the share of the overall decrease in felony arrests that each category of offense accounted for.

Figure 2: Annual Number of Felony Arrests by Category of Offense 2002 to 2012



Source: California Department of Justice

Table 4: Annual Number of Felony Arrests by Category of Offense 2008 to 2012

Arrest Offense	2008	2012	Decrease	% Decrease	Share of Decrease
All Felony Arrests	18,494	8,244	10,250	55%	100%
<u>By Category</u>					
Violent Offenses	3,933	1,883	2,050	52%	20%
Property Offenses	3,221	1,320	1,901	59%	19%
Drug Offenses	7,592	1,461	6,131	81%	60%
Sex Offenses	76	60	16	21%	0%
Other Offenses	3,672	3,520	152	4%	1%

Source: California Department of Justice

The decrease in arrests from 2008 to 2012 is mirrored over the same time period by a 28 percent decrease in the number of jail bookings, and a 32 percent decrease in the number of new criminal filings with the San Francisco Superior Court, as shown in Table 5 below.

Table 5: Inmate Population, Bookings, Arrests, Prosecutions, Crimes 2008 to 2011

	2008	2011	Decrease	% Decrease
Average Daily Population	2,015	1,548	467	23%
Bookings	33,037	23,722	9,315	28%
Felony Arrests	18,494	8,911	9,583	52%
Felony & Misdemeanor Arrests	33,487	22,828	10,659	32%
New Superior Court Criminal Filings	13,750	9,380	4,370	32%
Violent & Property Crimes	43,901	39,244	4,657	11%

Sources: California Department of Justice, Sheriff's Department

The decrease in the inmate population from 2008 to 2013 has been driven mainly by a decrease in arrests, in particular drug-related arrests, due largely to implementation of law enforcement policies that promote alternatives to incarceration and other policies. During interviews with the Chief of Police and District Attorney, both officials concurred that changes in City policies for the arrest and prosecution of drug-related offenses have contributed to the decline in the inmate population over the last five years.

The Controller's August 2013 County Jail Needs Assessment

In the August 2013 *County Jail Needs Assessment*, the Controller forecasted an average daily population of 1,900 inmates in the year 2019. The *County Jail Needs Assessment* accounts for the need for additional beds due to classification³ of the inmate population and peak population, and forecasts a need for between 2,091 and 2,298 beds in the year 2019. The Controller plans to update its forecast in January 2014.

The Controller's Methodology

The Controller's forecast of future bed needs used a methodology consisting of four components, as shown in Table 6 below.

³ According to the National Institute of Corrections, Jail classification is a process of assessing every jail inmate's custody and program needs, and identifying the level of risk so that appropriate housing and program assignments can be made. Based on the classification, inmates may be separated into housing units based on gender, pre-trial and sentenced inmates, violent and non-violent felonies, and other factors.

Table 6: Controller’s Forecasted Jail Bed Needs in 2019

Component of Forecast	Moderate Estimate	Conservative Estimate
1. Baseline Forecast	1,712	1,712
2. Impact of Public Safety Realignment	188	188
Subtotal: Inmate Population	1,900	1,900
3. Classification Factor	+5.0%	+8.2%
4. Peak Population Factor	+4.8%	+11.8%
Total Beds Needed in 2019	2,091	2,298

Source: Controller

- Baseline Forecast:** The Controller established a baseline forecast using the methodology originally used by Jay Farbstein and Associates (Jay Farbstein) in their December 7, 2011 *San Francisco Jail Population Study*. Jay Farbstein’s methodology was to use a regression model to calculate a trend line from 1996 to 2011, and then project that trend line to 2019. This methodology assumes that the trend exhibited from 1996 to 2011 will continue into the relevant future. Using this model, the Controller forecast a baseline average daily population of 1,712 in the year 2019.
- Public Safety Realignment Population:** The Controller forecasted the Public Safety Realignment population separately from the non-Public Safety Realignment population because implementation of Public Safety Realignment had just begun in October 2011, and therefore its impact on the inmate population was uncertain and could not be forecasted in the same way using historical data. The Controller used Public Safety Realignment population data from February 2012 to June 2012 to estimate the average daily Public Safety Realignment population of 188.
- Classification Factor:** The classification factor accounts for beds that must be left vacant in order to isolate inmates with security classifications that preclude them from being housed with other inmates (either for the protection of the isolated inmates, for the protection of the general inmate population, or as required by law). For example, on January 29, 2013, the Controller and Sheriff’s Department counted 128 beds that were left vacant due to classification, as shown in Table 7 below.

Table 7: Vacant Beds on January 29, 2013 due to Classification

Inmate Classification	Vacant Beds
Sexually Violent Predators	24
Gang Dropouts	8
Transgender	21
Psychiatric Needs	31
Medical	11
Lock-up	17
Psychiatric Needs/Administrative Segregation	7
House Alones	<u>9</u>
TOTAL	128
Total Inmate Population on January 29, 2013	1,556
Actual Bed Need on January 29, 2013	1,684
Classification Factor (128 ÷ 1,556)	8.2%

Source: Controller

Forecasts performed by two consultants hired by the Sheriff's Department, Jay Farbstein and Crout and Sida Criminal Justice Consultants (Crout and Sida), used a classification factor of 5%. However, the Sheriff's Department has asserted that 5% is an underestimate of actual need.

Based on the 8.2% classification factor identified on January 29, 2013, the Controller established 8.2% as a conservative estimate of the classification factor, and 5% as a moderate estimate, as shown in Table 6 above.

4. **Peak Population Factor:** The peak population factor allows extra beds for "peak" days, which are days when the inmate population reaches its peak for a given period of time.

The Controller established moderate and conservative peak population factors based on the different methodologies used by the two external consultants. Jay Farbstein calculated the peak population factor by averaging the peak days from each month during a year, while Crout and Sida took the highest peak day of the year, and then both consultants subtracted the annual average daily population from their peak figure (average of all monthly peaks vs. annual peak). As a result of averaging monthly peaks, the Jay Farbstein methodology resulted in the actual jail population being within the estimated peak population factor 93% of the time, according to Jay Farbstein. By contrast, the inmate population never exceeded the peak population factor established by the Crout and Sida methodology.

The Controller chose to replicate both consultants' methodologies for the year 2012, and found peak population factors of 4.8% and 11.8% respectively. The Controller established these peak population factors as its moderate and conservative estimates of the peak population factor, as shown in Table 6 above.

Finally, the Controller applied the classification and peak population factors to the forecasted inmate population of 1,900 inmates, and arrived at a forecasted bed need of between 2,091 and 2,298 in the year 2019, as shown in Table 6 above.

Estimates of Average Daily Population Based on 2012 and 2013 Data

Baseline Forecast

In order to update the baseline historical data exclusive of the Public Safety Realignment population, the Budget and Legislative Analyst obtained data from the Sheriff's Department regarding the Public Safety Realignment population in 2012 and 2013, and then calculated an annual average daily population for the Public Safety Realignment population and subtracted it from the total annual average daily population, as shown in Table 8 below.

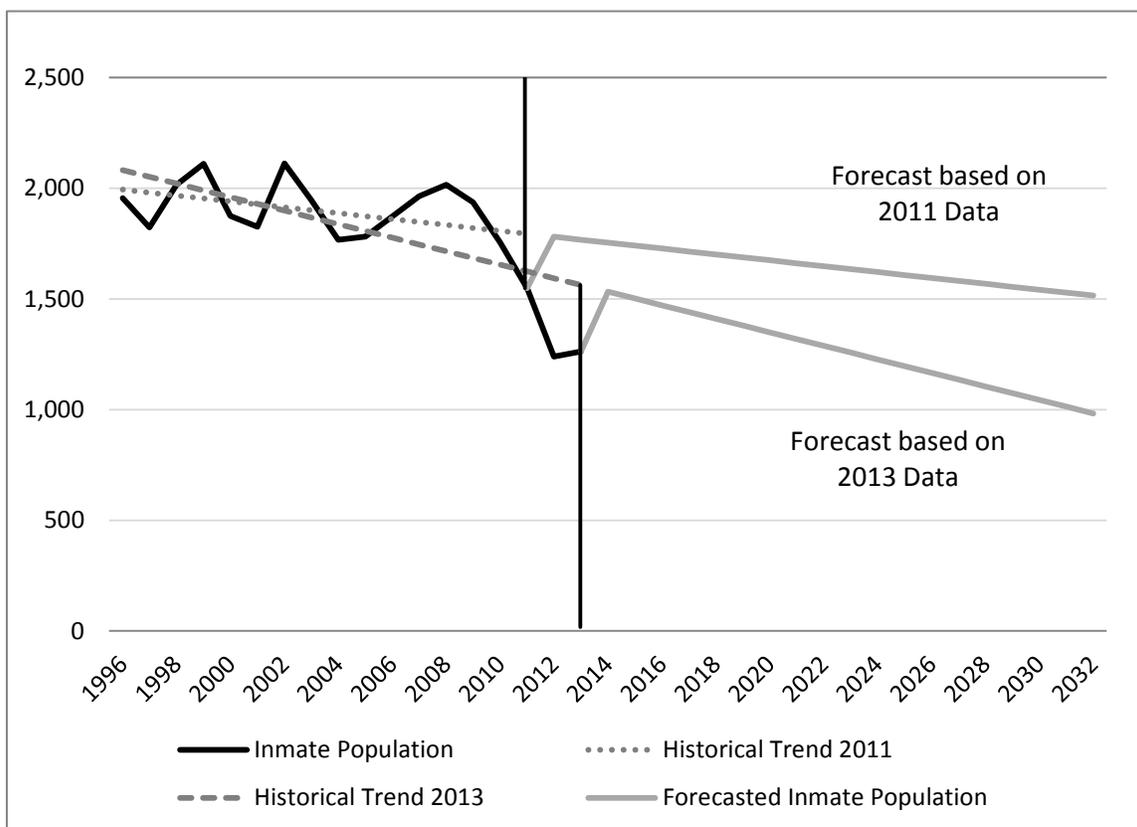
Table 8: Calculation of the Baseline Inmate Population for 2012 and 2013

	2012	2013
Total Annual Average Daily Population	1,529	1,413
Public Safety Realignment Average Daily Population	- <u>289</u>	- <u>176</u>
Baseline Average Daily Population	1,240	1,237

Source: BSCC, Sheriff's Department

Using these figures for the 2012 and 2013 baseline average daily population, the Budget and Legislative Analyst calculated a new trend line, as shown in Figure 3 below.

Figure 3: Baseline Model with Data through 2011 and Data through 2013



Source: BSCC, Sheriff's Department

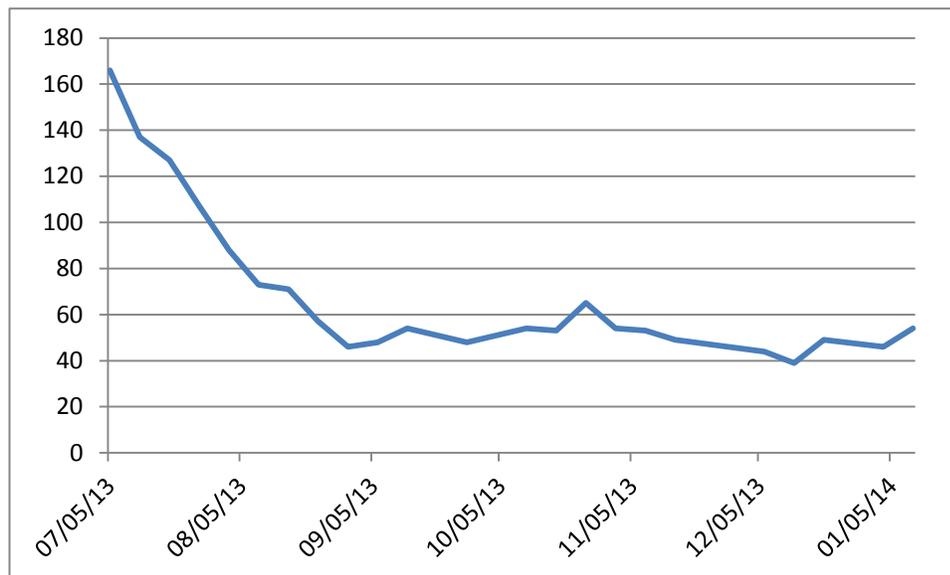
As shown in Figure 3 above, the continued decrease in the baseline average daily population in 2012 and 2013 results in a steeper historical trend line. Based on 2012 and 2013 data, the baseline average daily population in the year 2019 is 1,372 inmates, compared to the 1,712 inmates forecasted by the Controller using historical data through the end of 2011.

Public Safety Realignment Population

The Public Safety Realignment population in the County jails decreased from 289 in 2012, the first full year of implementation, to 176 in 2013. In July 2013, responsibility for some State parolees was transferred from the State to the counties as part of Public Safety Realignment.

In 2013, the average daily population of State parolees decreased, as shown in Figure 3 below, and has averaged approximately 51 from August 2013 to January 2014.

Figure 4: Average Daily Number of State Parolees in San Francisco Jails from July 5, 2013 through January 5, 2014



Source: Sheriff's Department

According to Mr. Armel Farnsworth, Unit Supervisor San Francisco #3, California Department of Corrections and Rehabilitation (CDCR) Division of Parole Operations, this decrease is due almost entirely to the transfer of parole revocation hearings from the State Board of Parole Hearings to the Superior Court and associated changes in parole revocation policy mandated under Public Safety Realignment, which took effect on July 1, 2013. According to Mr. Farnsworth, prior to July 1, 2013, State law dictated that violent and serious felonies be referred to the State Board of Parole Hearings for parole revocation proceedings. Since July 1, 2013, referral to revocation proceedings is under the discretion of the Division of Parole Operations unit supervisor. Parolees are referred to revocation proceedings only after all alternative remedies have been exhausted (alternative remedies range from verbal counseling to placement in a residential treatment facility), or if the parolee is considered to be a risk to public safety. According to Mr. Farnsworth, the number of revocation hearings has declined from approximately 20 per week prior to July 1, 2013 to approximately five per week in September 2013. According to Mr. Farnsworth, the number of parolees incarcerated in the County jail may vary in as alternatives to incarceration for some parolees are exhausted; and due to legislative changes.⁴

Based on the 2013 actual average daily Public Safety Realignment population and the expected number of State parolees in County jail going forward, the Budget

⁴ The State Legislature adopted SB 57 in October 2013 imposes a mandatory 180 day incarceration on any parolee who was convicted of a sex offense, and found guilty of violating the terms of his or her parole by removing the electronic monitor. The impact of implementation of SB 57 on the average daily inmate population is not yet known.

and Legislative Analyst estimates the future impact of Public Safety Realignment to be 106 additional inmates above the baseline forecast, as shown in Table 9 below.

Table 9: Public Safety Realignment’s Impact on the Inmate Population⁵

Penal Code Section under which Inmates Are Incarcerated	Budget and Legislative Analyst Estimate
Penal Code 3454 – Violation of Post-Release Community Supervision	3
Penal Code 3455 – Revocation of Post-Release Community Supervision	17
Penal Code 1170h – New Low-level Felony Commitments	35
Penal Code 3056 – Violation of State Parole	<u>51</u>
TOTAL NUMBER OF INMATES	106

Average Daily Inmate Population in 2019

The Budget and Legislative Analyst estimate of the average daily inmate population and required County jail beds in 2019 are shown in Table 10 below.

Table 10: Budget and Legislative Analyst’s Estimated Number of Required Jail Beds in 2019⁶

	Moderate Estimate	Conservative Estimate
Baseline Forecast	1,372	1,372
Impact of Public Safety Realignment	106	106
Subtotal: Inmate Population	1,478	1,478
Classification Factor	5.0%	8.2%
Peaking Factor	4.8%	11.8%
Beds Needed in 2019	1,626	1,788

The Budget and Legislative Analyst’s forecast of the average daily inmate population in 2019 accounts for the long term downward trend in the baseline

⁵ **Penal Code 3454:** These individuals violated the terms of their Post-Release Community Supervision (PRCS) and are sentenced to a maximum 10-day flash incarceration. **Penal Code 3455:** These individuals violated the terms of the PRCS and are subject to penalties other than flash incarceration, including modification of PRCS conditions, returning to jail, or referral to an evidence-based program. **Penal Code 1170h:** These individuals committed non-violent, non-sexual, non-serious felony offenses. Prior to Public Safety Realignment they would have been housed in state prison. **Penal Code 3056:** Individuals whose parole is revoked by the State of California are remanded to County jail. Prior to Public Safety Realignment they would have been housed in state prison.

⁶ The Budget and Legislative Analysts calculated (a) the trend line for the 2019 average daily population of 1,364, based on the actual average daily population from 1996 through December 16, 2013, and projected forward through 2019; and (b) the average Public Safety Realignment daily population in 2012 and 2013.

population from 1996 through December 16, 2013 and the actual Public Safety Realignment population in 2013. The downward trend in the average daily population is due to trends in criminal justice policy and demographics.

Trends in Criminal Justice Policy

According to Chief of Police, District Attorney, and Adult Probation Chief, the three local officials whose policies have the greatest impact on the number of inmates incarcerated, the inmate population will most likely not increase above current levels under current criminal justice policies, which is largely in the control of City policymakers. The District Attorney and Adult Probation Chief anticipate that the inmate population will decrease further in the coming years and decades.

Demographic Trends

According to the Controller, San Francisco's current demographic trends also support a gradual, long-term decline in the inmate population. As noted in the *County Jail Needs Assessment*, while the total population in San Francisco is increasing slowly, the number of adults age 18 to 35 decreased from 276,121 in 2000 to 258,151 in 2012, and is expected to continue decreasing through 2024 and remain below current levels through 2033, according to the California Department of Finance.

III. Opportunities to Expand the Use of Alternatives to Incarceration

San Francisco's Existing System of Alternatives to Incarceration

As described in the *County Jail Needs Assessment*, the City and County of San Francisco employs a wide range of pretrial release and alternative sentencing programs that serve to decrease the number of individuals in San Francisco County jails, as shown in Table 11 below. Placement in these alternatives to incarceration is not limited to misdemeanor offenders only.

Table 11: The City's Existing Alternative to Incarceration Programs

Program	Description	Participants	
		1/29/13	11/8/13
<i>Pretrial Programs</i>			
Pretrial Diversion (Operated by Pretrial Diversion Project)	Provision of programs and other court requirements that when successfully completed result in dismissal of charges. Targets misdemeanor offenders only.	416	501
Own Recognizance (Operated by Pretrial Diversion Project)	Facilitation of Court's review process to determine whether an individual can be released without bail prior to trial. Targets misdemeanor and felony offenders.	243	273
Supervised Pretrial Release (Operated by Pretrial Diversion Project)	Monitoring and placement into treatment programs during pretrial release to ensure that individuals appear at court dates.	141	193
Court Accountable Homeless Services (Operated by Pretrial Diversion Project)	Operated by Pretrial Diversion Project. Case management for homeless individuals referred by the Court.	24	26
Pretrial Electronic Monitoring	Electronic monitoring for in-custody pretrial individuals referred by Court.	28	41
Subtotal		852	1,034
<i>Alternative Sentencing Programs</i>			
Electronic Monitoring (Out-of-custody Court or Adult Probation Referral)	Electronic monitoring for out-of-custody individuals referred by the Court or Adult Probation.	42	29
Electronic Monitoring (Released from Jail)	Electronic monitoring for sentenced individuals select by the Sheriff.	(included above)	5
Sheriff's Work Alternative Program	Supervision of work crews for out-of-custody individuals referred by Court.	55	59
Subtotal		97	93
GRAND TOTAL		949	1,127

Sources: Sheriff's Department, Controller

As shown in Table 113 above, there were 949 participants in the City's alternative to incarceration programs on January 29, 2013, and 1,127 participants on November 8, 2013. In the absence of these programs, the total inmate population could have been 2,505 inmates on January 29 (compared to 1,556), and 2,394 inmates on November 8 (compared to 1,267).

Between January 29 and November 8, 2013, there was a 21 percent increase in the number of participants enrolled in programs operated by the Pretrial Diversion Project, from 824 participants to 993 participants. This increase was mirrored by a 56 percent increase in the number of releases from jail into these programs, from 988 releases between December 2011 and November 2012, to 1,544 releases from December 2012 to November 2013. According to Mr. Will Leong, the Director of the Pretrial Diversion Project, the increase in releases is due largely to changes in how the Court administers releases. Prior to late 2012, the responsibility for reviewing workups and approving releases was given to 52 judges, each of who filled one shift twice per year. Since late 2012, three commissioners review 90 percent of the workups and approve releases. According to Mr. Leong, the criteria for releasing offenders have not changed. Rather, the process has become more efficient and consistent by assigning the responsibility primarily to three commissioners.

Although the number of releases to programs operated by the Pretrial Diversion Project comprises less than 10 percent of all jail bookings in the last two years, most if not all of the offenders released to these programs would have remained in jail for longer periods of time had they not been released, because they were not cited out or released on bail.

The Potential to Increase the Number of Offenders Diverted or Released from Jail

According to Mr. Leong, who is familiar with the process and criteria used to select inmates for pretrial release, only a small portion of the inmates who are not released under current policies would be considered by most to be appropriate for release, based on the risk to public safety or the flight risk their release could pose. However, the District Attorney and Sheriff are considering at least three pretrial release or sentencing programs that could result in up to an estimated 60 additional inmates released from jail if successfully implemented.

1. Pre-booking or pre-charge diversion of low-level drug offenders to treatment programs

The District Attorney is proposing two alternatives to incarceration called "pre-booking diversion" and "pre-charge diversion".

A pre-booking diversion program would target repeat low-level offenders arrested for drug possession. Upon arrest, offenders would be given the option of being arrested or being taken to a caseworker for assessment and referral to a treatment program. The program would mostly rely on existing services funded by

the City. Like a similar program in Seattle, Washington, which targets the neighborhood of Belltown, San Francisco's program would target the Tenderloin neighborhood during its pilot period.

A pre-charge diversion program would release inmates after booking but before arraignment. Within the 48 business hours after booking during which the District Attorney must make a charging decision, the District Attorney could offer offenders arrested for drug possession the same option of being taken to a case worker for assessment and referral to a treatment program.

Potential impact on the inmate population:

According to a study from the JFA Institute, 44 inmates were incarcerated for felony drug possession charges on March 25, 2012. The Budget and Legislative Analyst estimates that if the two proposed diversion programs were to allow for the release of 25 percent of the inmates incarcerated for felony drug possession, the average daily inmate population could be reduced by an additional 11 inmates.

2. Referring a greater number of misdemeanor cases to Neighborhood Courts rather than prosecuting them in criminal court

The District Attorney is also considering referring a greater number of misdemeanor cases to Neighborhood Courts, rather than prosecuting them in criminal court. Neighbor Courts are panels consisting of volunteer "neighborhood adjudicators" trained in restorative justice and problem solving who hear low-level misdemeanor and infraction cases, and issue "directives" such as community service or restitution. There are 10 neighborhood courts across the city and over 100 adjudicators serving on them. In 2012 the District Attorney's Office referred 698 cases to Neighborhood Court.

Currently, more serious misdemeanor cases are prosecuted in criminal court. Expanding the types of cases that are referred to Neighborhood Courts could affect out-of-custody and in-custody defendants. When such cases are referred to Neighborhood Courts, those offenders in custody would be released from custody, thus reducing the inmate population.

Potential impact on the inmate population:

According to the *County Jail Needs Assessment*, 99 out of 1,556 inmates on January 29, 2013, or approximately 6%, were charged with misdemeanors. Therefore, significantly expanding the number of individuals charged with misdemeanors who were referred to Neighborhood Courts could reduce the inmate population by an estimated 25 or more inmates on any given day. The Budget and Legislative Analyst estimates that if increased referrals to Neighborhood Courts were to reduce the number of inmates charged with misdemeanors by 50 percent, the average daily inmate population could be reduced by an additional 49 inmates.

3. Pretrial Release by the Sheriff's Department as provided under Penal Code Section 1203.018

Public Safety Realignment gave the Sheriff's Department the authority to establish an electronic monitoring program for pretrial inmates who cannot afford bail (Penal Code 1203.018), subject to Board of Supervisors' approval. Currently in San Francisco only the Superior Court refers inmates to pretrial release programs. Board of Supervisors approval of Penal Code 1203.018 powers would allow the Sheriff's Department to release pretrial inmates into an electronic monitoring program once they have been in custody for at least 60 days after arraignment on a felony charge, or at least 30 days after arraignment on a misdemeanor charge. The Sheriff's Department introduced an ordinance on June 25, 2013 that would authorize such a program (File No. 130650), although it has not been scheduled for a committee meeting.

The Sheriff's Department has not identified additional criteria that would be used to select pretrial inmates for release on electronic monitoring beyond the criteria set forth in Penal Code 1203.018, discussed above. Therefore, is the difficult to estimate the number of inmates that could be released under such a program.

IV. Alternatives for Replacing County Jails #3 and #4

Alternatives Examined by the Budget and Legislative Analyst

The jail currently being proposed by the Sheriff's Department and DPW to replace County Jails #3 and #4 would have 320 cells, with a maximum capacity of 640 rated beds. The Budget and Legislative Analyst has considered six alternatives for replacing County Jails #3 and #4 including the proposed project, shown in Table 14 below, and has examined the alternatives based on three criteria: (1) bed capacity, (2) construction, transportation, and holding cell costs, and (3) safety and security.

Table 12: Six Alternatives for Replacing County Jails #3 and #4

	Total Jail Beds	
	W/out existing County Jail #6	With existing County Jail #6
1. No replacement jail	1,238	1,610
2. 256-bed San Bruno Jail (remodel of existing County Jail #6)	1,494	-
3. 256-bed Hall of Justice Jail	1,494	1,866
4. 384-bed Hall of Justice Jail	1,622	1,994
5. 640-bed San Bruno Jail (256-bed remodel of County Jail #6 and construction of new 384-bed San Bruno Jail)	1,878	-
6. 640-bed Hall of Justice Jail (Proposed)	1,878	2,250

The six alternatives shown above range from not constructing a replacement jail to constructing the proposed 640-bed replacement jail.

- Alternative #2 is to remodel County Jail #6 into a maximum security jail with a capacity of 256 beds, which is the number of maximum security beds the existing structure could hold, according to DPW.
- Alternative #3 is to construct a replacement jail with a 256-bed capacity near the HOJ.
- Alternative #4 is to construct a replacement jail with a 384-bed capacity near the HOJ.⁷

⁷ Alternatives #1, #2, #3 and #4 and associated cost estimates shown in Table 17 were derived from Alternative #5, which was developed by the Sheriff's Department with cost estimates provided by DPW.

- Alternative #5 was developed by the Sheriff's Department for the purpose of comparing the construction of 640 beds at the San Bruno site to the construction of 640 beds near the Hall of Justice (the proposed replacement jail). Under Alternative #5, County Jail #6 would be remodeled into a maximum security jail with a capacity of 256 beds, and an additional 384 beds would be built by constructing a new jail at the San Bruno site.
- Alternative #6 is the current proposal to construct a replacement jail with a 640-bed capacity near the HOJ.

Questions about the Usability of County Jail #6

As discussed in the *County Jail Needs Assessment*, the Sheriff's Department has concerns about the future use of County Jail #6 due to its operational and design limitations. The Sheriff's Department plans to address the building's deficiencies as part of a master planning process in 2014.

County Jail #6 was opened in 1989 to house inmates sentenced or charged with misdemeanors, and was built as a low-security jail with dormitory-style housing units appropriate to that population. According to the Sheriff's Department, because the proportion of misdemeanor and minimum-security inmates has decreased substantially, County Jail #6 no longer meets the needs of housing most of the inmate population safely and securely and is currently closed.

Concerns about Transportation

Currently, inmates in County Jails #3 and #4 are transported through secure elevators and corridors to court appearances at the HOJ. According to the Sheriff's Department, the ability to transport inmates to and from the HOJ through an underground corridor, rather than by vehicle from a remote location, is a major advantage of locating any replacement jail adjacent to the HOJ, both for cost-efficiency and for the safety and security of inmates and staff.

Analysis of Bed Capacity

If the average daily jail population in 2019 is 1,478, as estimated by the Budget and Legislative Analyst in Table 10 above, the County would require from 1,626 to 1,788 jail beds to meet classification and peak population requirements.

Table 13: Comparison of Jail Bed Capacity under Six Alternatives to 1,626 Forecasted Jail Bed Requirements in 2019

		Total Jail Beds			Over/ (Under) Required Beds	
		W/out existing County Jail #6	With existing County Jail #6	Estimated Required Jail Beds	W/out existing County Jail #6	With existing County Jail #6
1	No replacement jail	1,238	1,610	1,626	(388)	(16)
2	256-bed San Bruno Jail (remodel of existing County Jail #6)	1,494	-	1,626	(132)	n/a
3	256-bed Hall of Justice Jail	1,494	1,866	1,626	(132)	240
4	384-bed Hall of Justice Jail	1,622	1,994	1,626	(4)	368
5	640-bed San Bruno Jail (256-bed remodel of County Jail #6 and construction of new 384-bed San Bruno Jail)	1,878	-	1,626	252	n/a
6	640-bed Hall of Justice Jail (Proposed)	1,878	2,250	1,626	252	624

If the County requires 1,626 jail beds in 2019, the County could construct a:

- 384-bed jail at the Hall of Justice (Alternative #4) rather than the currently planned 640-bed jail without using the existing County Jail #6 to meet peak population or classification requirements.⁸
- 256-bed jail at the Hall of Justice (Alternative #3) if the Count were to use the existing County Jail #6 to meet peak population or classification requirements.

⁸ Although the 1,626 jail beds required to meet peak population and classification factors, the difference of 4 between the required number of beds at peak capacity and the available number of beds is 0.3 percent of total capacity, and could probably be accommodated through diversion of low-level offenders (see Section III) or other procedures.

Table 14: Comparison of Jail Bed Capacity under Six Alternatives to 1,788 Forecasted Jail Bed Requirements in 2019

		Total Jail Beds			Over/ (Under) Required Beds	
		W/out existing County Jail #6	With existing County Jail #6	Estimated Required Jail Beds	W/out existing County Jail #6	With existing County Jail #6
1	No replacement jail	1,238	1,610	1,788	(550)	(178)
2	256-bed San Bruno Jail (remodel of existing County Jail #6)	1,494	-	1,788	(294)	n/a
3	256-bed Hall of Justice Jail	1,494	1,866	1,788	(294)	78
4	384-bed Hall of Justice Jail	1,622	1,994	1,788	(166)	206
5	640-bed San Bruno Jail (256-bed remodel of County Jail #6 and construction of new 384-bed San Bruno Jail)	1,878	-	1,788	90	n/a
6	640-bed Hall of Justice Jail (Proposed)	1,878	2,250	1,788	90	462

If the County requires 1,788 jail beds in 2019, the County could construct a 256-bed or 384-bed jail at the Hall of Justice (Alternatives # 3 and #4) rather than the currently planned 640-bed jail if the County were to use the existing County Jail #6 to meet peak population or classification requirements.

The Average Daily Inmate Population in 2019 Could Be Less than the Forecasted Population

The Budget and Legislative Analyst’s 2019 County jail population forecast is based on historical data from 1996 through 2013, which includes years in which the average daily inmate population was higher than the current population, as shown in Figure 1 above.⁹ If the County jail population stays the same or decreases from the 2013 average daily inmate population, then the actual jail population in 2019 could be lower than the current estimates, potentially allowing the City to construct a smaller replacement jail than the Budget and Legislative Analyst’s estimate.

Analysis of Costs

Table 15 below presents the estimated project costs for constructing a replacement jail and total estimated costs including debt service and

⁹ The Budget and Legislative Analyst’s methodology is similar to the Jay Farbstein Study, which was conducted in 2011 and used 1996 to 2011 average daily inmate population data.

transportation of inmates between San Bruno and the HOJ, for each of the six replacement alternatives.

Table 15: Estimated Costs for Six Replacement Alternatives

	Estimated Project Costs	Debt Service, Reserve, and Other Financing Costs	Total Project and Financing Costs	Transportation and Holding Cell Costs ¹⁰	Total
1 No replacement jail ¹	\$9,000,000	\$9,900,000	\$18,900,000	\$301,478,711	\$320,378,711
2 256-bed San Bruno Jail (remodel of existing County Jail #6) ¹	\$85,200,000	\$95,700,160	\$180,900,160	\$301,478,711	\$482,378,871
3 256-bed Hall of Justice Jail	\$134,000,000	\$157,034,175	\$291,034,175	\$0	\$291,034,175
4 384-bed Hall of Justice Jail	\$193,800,000	\$227,158,575	\$420,958,575	\$0	\$420,958,575
5 640-bed San Bruno Jail (256-bed remodel of County Jail #6 and construction of new 384-bed San Bruno Jail) ¹	\$228,100,000	\$250,910,460	\$479,010,460	\$367,272,198	\$846,282,658
6 640-bed Hall of Justice Jail (Proposed)	\$290,000,000	\$339,610,125	\$629,610,125	\$0	\$629,610,125

¹ According to cost estimates provided by DPW, the City would need to construct \$9 million in improvements to County Jails #1 and #2, adjacent to the HOJ, to accommodate inmates transported from San Bruno to the HOJ for court proceedings if the City does not construct a replacement jail at the HOJ.

Construction Costs

As shown in Table 15, the estimated project costs increase with the number beds. In addition, constructing beds at the San Bruno site would be less costly than constructing the equivalent number of beds near the HOJ. According to cost

¹⁰ According to estimates provided by the Sheriff's Department and DPW, the annual operating costs of transporting inmates between the San Bruno site and the HOJ would range from \$3,902,674 for 256 inmates to \$4,680,083 for 640 inmates. These costs include uniform staff to provide transportation and holding cell security, fuel costs, and contracts for visitor shuttles. The Sheriff's Department and DPW estimate such costs would increase at 3% per year due to inflation. In addition, there would be one-time costs to hire and train uniform staff ranging from \$976,904 to \$1,193,994 depending on the number of inmates, and the cost of purchasing a new fleet every 10 years, which would range from \$592,500 to \$1,253,750 in the first year depending on the number of inmates expected. Finally, if a replacement jail is not constructed near the HOJ, there would be capital costs of \$9,000,000 associated with constructing holding cell space and other essential facilities needed to operate County Jails #1 and #2 that are currently housed at County Jails #3 and #4.

estimates provided by DPW, the estimated construction costs associated with remodeling County Jail #6 are 75 percent of the cost per square foot of constructing a replacement jail near the HOJ containing the equivalent number of beds. The estimated construction costs associated with constructing a new jail at the San Bruno site are 90 percent of the cost per square foot of constructing a replacement jail near the HOJ containing the equivalent number of beds. Finally, constructing the equivalent number of beds at the San Bruno site is also less costly because the City would not have to acquire property. As shown in Table 3 above, the costs associated with acquiring property are budgeted at \$30,700,000.

Transportation and Holding Cell Costs

The City would incur new transportation and holding cell costs over the long term, which vary depending on the number of inmates being housed at the San Bruno site. Because the actual number of inmates could be less than the number of estimated inmates, the estimated transportation and holding cell costs shown in Table 16 are maximum costs. Actual costs could be less.

The estimated transportation and holding cell costs over 40 years are such that constructing and filling beds at the San Bruno site would be significantly more costly than constructing and filling the same number of beds near the HOJ, despite the lower construction costs at the San Bruno site. Because there is no other apparent benefit to housing inmates at the San Bruno site compared to housing inmates near the HOJ, the significant cost differential would seem to rule out remodeling County Jail #6 or constructing a replacement jail at the San Bruno site (Alternatives #2 and #5).

The cost estimates in Table 16 also indicate that not constructing a replacement jail would be more costly over a 40-year period than constructing a 256-bed replacement jail near the HOJ, but less costly than constructing a 384-bed or 640-bed replacement jail near the HOJ.

Comparison of Debt Service for Alternatives #3, #4 and #6

Table 17 below presents the estimated total debt service and average annual payments over 23 years for constructing a replacement jail at the HOJ (Alternatives #3, #4 and #6), provided by the Controller’s Office of Public Finance.

Table 17: Total Debt Service and Annual Average Payments over 23 Years

	Alternative #3	Alternative #4	Alternative #6
	256-bed HOJ Jail	384-bed HOJ Jail	640-bed HOJ Jail
	\$134,000,000	\$193,800,000	\$290,000,000
Total Debt Service	291,034,175	420,958,575	629,610,125
Annual Average	12,653,660	18,302,547	27,374,353

Source: Controller’s Office of Public Finance

Analysis of Safety and Security

- **Alternative #1:** As discussed above, housing inmates at the existing County Jail #6 would provide less safety and security for inmates and staff, according to the Sheriff's Department. In addition, transporting inmates between the San Bruno site and the HOJ would be less safe and secure for inmates and staff.
- **Alternative #2:** Remodeling County Jail #6 into a maximum security jail with 256 beds would provide a higher level a safety and security for inmates and staff inside the jail, but transporting inmates between the San Bruno site and the HOJ would be less safe and secure for inmates and staff.
- **Alternative #3:** Constructing a 256-bed jail near the HOJ would provide a higher level of safety and security for inmates and staff both inside the jail and in transporting inmates between the jail and the HOJ.
- **Alternative #4:** Constructing a 384-bed jail near the HOJ would provide a higher level of safety and security for inmates and staff both inside the jail and in transporting inmates between the jail and the HOJ.
- **Alternative #5:** Remodeling County Jail #6 into a maximum security jail with 256 beds and building an additional 384-bed jail at the San Bruno site would provide a higher level of safety and security for inmates and staff inside the jails, but transporting inmates between the San Bruno site and the HOJ would be less safe and secure for inmates and staff.
- **Alternative #6:** Constructing a 640-bed jail near the HOJ would provide a higher level of safety and security for inmates and staff both inside the jail and in transporting inmate between the jail and the HOJ.

Conclusion

Based on the analysis above, the Budget and Legislative Analyst concludes that constructing no replacement jail is the least viable among Alternatives #1, #3, #4 and #6, unless the inmate population decreases to an average daily population of 1,023 inmates and County Jail #6 therefore does not need to be reopened.

Alternatives #3, #4 and #6 are equal in terms of safety and security, but vary in terms of bed capacity and cost. Because of the continuing downward trend in the average daily inmate population and the significant savings that could be achieved if the City constructs a smaller replacement jail, the City should re-evaluate the number of replacement jail beds required in 2019 after environmental review is completed in late 2015 and construct a smaller replacement jail if the average daily jail population remains at its current level or declines further.