

# Public Comment Letter

Center on Juvenile  
and Criminal Justice

Received By the BSCC

October 19, 2016



October 19, 2016

Senate Bill 844 Executive Steering Committee  
Board of State and Community Corrections  
2590 Venture Oaks Way  
Sacramento, CA 95833

Re: RFP for Adult Local Criminal Justice Facilities Construction Funding

Dear Committee Members,

We write to provide public comment on the drafting of the Request for Proposals (RFP) in connection with awarding \$250,000,000 to counties for the construction of adult local criminal justice facilities. The RFP will describe types of construction projects that the BSCC is seeking to fund, and will assert the criteria by which these projects will be evaluated. This RFP is therefore critical in the determination of what the next generation of local criminal justice facilities and practices will be. We write to provide our recommendations as researchers and advocates interested in promoting “long-term, statewide strategy to effectively manage its jail population and jail resources” as stipulated in Senate Bill (SB) 844 (Government Code section 15820.943(b)).

**1. Eligible Projects: emphasize the requirement that eligible projects must add or improve space designated for treatment and rehabilitative services.**

One of the primary issues for the RFP to address is the type of facilities that are eligible for funding and will be given the strongest consideration for funding. Senate Bill (SB) 844 clearly states the intent of the Legislature that these funds be spent only on facilities that emphasize programming and treatment:

“[A]n adult local criminal justice facility may include improved housing with an **emphasis on expanding program and treatment space** as necessary to manage the adult offender population under the jurisdiction of the sheriff or county department of corrections...” [Emphasis added] Government Code section 15820.94 (b)(1)

“[An] **adult local criminal justice facility may also include custodial housing, reentry, program, mental health, or treatment space** necessary to manage the adult offender population under the jurisdiction of the sheriff or county department of corrections...” [Emphasis added]. Government Code section 15820.94 (b)(2)

These statements of intent from the Legislature make clear that addressing programming and treatment needs are requirements for funding under this legislation, not options:

“Funding consideration shall be given to counties that are seeking to replace compacted, outdated, or unsafe housing capacity **that will also add treatment space** or counties that are seeking to renovate existing or build new facilities **that provide adequate space for**

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**the provision of treatment and rehabilitation services, including mental health treatment.”** [Emphasis added] Government Code section 15820.946(c)

**2. Eligible Projects: inform applicants that the purpose of this funding can and should include facilities that promote “community-based punishment” as described in Penal Code sections 17.5 and 3450.**

In SB 844, the Legislature provided the following definition of the types of facilities it intended to be built with these grants:

“For purposes of this chapter, an **adult local criminal justice facility may include any custodial housing, reentry, program, mental health, or treatment space necessary to manage the adult offender population consistent with the legislative intent described in Sections 17.5 and 3450 of the Penal Code** under the jurisdiction of the sheriff or county department of corrections, as may be applicable, to be further defined by the BSCC in duly adopted regulations.” [Emphasis added] Government Code section 15820.94 (b)(2)

These types of facilities include:

- Work furlough (Penal Code section 17.5(a)(8)(F).)
- Day Reporting Centers (Penal Code section 17.5(a)(8)(H).)
- Community-based residential programs offering structure, supervision, drug treatment, alcohol treatment, literacy programming, employment counseling, psychological counseling, mental health treatment, or any combination of these and other interventions. (Penal Code section 17.5(a)(8)(L).)

We urge the Committee to draft an RFP that appropriately informs counties that the purpose of this funding is to build the types of facilities that promote “community-based punishment” as described in Penal Code sections 17.5 and 3450, as required by SB 844.

**3. Rating Criteria: points should be awarded based on the effectiveness of an applicant’s sexual assault reduction efforts and in-person visitation capacity.**

Significantly, SB 844 makes additional eligibility requirements for counties applying for these funds:

“Any locked facility constructed or renovated with state funding awarded under this program shall include space to provide onsite, in-person visitation capable of meeting or surpassing the minimum number of weekly visits required by state regulations for persons detained in the facility.” Government Code section 15820.946 (f)

And:

“Any county applying for financing authority under this program shall include a description of efforts to address sexual abuse in its adult local criminal justice facility constructed or renovated pursuant to this chapter.” Government Code section 15820.946 (g)

These requirements are unique additions to previous rounds of adult local adult local criminal justice facility funding legislation, and as such, the Legislature’s intention to prioritize funding to counties that have demonstrated a commitment to reducing sexual assaults and providing access to visitation, should

[Center on Juvenile and Criminal Justice \(CJCJ\), 40 Boardman Place, San Francisco, CA 94103](#)

be reflected in the rating criteria. We ask that applicants seeking funding must provide information about 1) their visitation facility and the number of weekly visits facilitated, and 2) a description of how they address sexual assault in their facilities. Additionally, we ask that this ESC does not simply award points for applicants including these descriptions, but evaluates the past effectiveness of the applicant's efforts to reduce sexual assaults and facilitate visitation.

**4. Rating Criteria: points should be awarded based on the viability of an applicant's staffing plan and operations costs in relation to the scope of the proposal.**

SB 844 legislation requires applicants to include staffing plans and operations costs and projections that would be necessary to realize their proposals:

"Submission of a staffing plan for the adult local criminal justice facility, including operational cost projections and documentation that the adult local criminal justice facility will be able to be safely staffed and operated within 90 days of completion, as may be applicable." Government Code section 15820.945 (c)(4)

We ask that applicants do not receive full points simply for including a staffing plan and operations costs in their proposals, but that the viability of those items be considered according to the scope of their proposals. If, for example, a county were to state that it plans to build classroom space, it must also provide a plan to hire enough teachers to utilize those classrooms, including cost projections for doing so. Additionally, the number of teachers they plan to hire should be numerous enough to adequately staff the number of classes they propose to hold.

The legislation states that California must be "fully prepared to develop an effective and sustainable system of local custodial facilities" and this ESC can better instigate these changes by evaluating the viability of applicant's long-term operations costs and staffing plans.

**5. Statement of Need: pretrial population statistics and descriptions of risk-based pretrial release services should be incorporated into the Statement of Need.**

SB 844 contains the following specific mandatory criterion for evaluating the counties' requests for funding:

"The funding criteria shall include, as a mandatory criterion, documentation of the percentage of pretrial inmates in the county jail from January 1, 2015, to December 31, 2015, inclusive, and a description of the county's current risk assessment based pretrial release program." Government Code section 15820.946(b)

This information is crucial in determining if a proposal's Scope of Work meets the needs established in the proposal, particularly if an applicant's proposes to increase bed capacity. For example, if an applicant's pretrial data reveals a large number of its facility population to be unsentenced and/or the applicant has established few or ineffective risk-based pretrial release services, yet the proposal requests additional beds to increase capacity, this ESC could more accurately determine that a proposal's Scope of Work did not effectively address the Statement of Need. This request is reflected by the legislation, where SB 844 states, "[A] participating county may replace existing housing capacity, realizing only a minimal increase of capacity, using this financing authority **if the requesting county clearly documents an existing housing capacity deficiency.**" [Emphasis added] Government Code section 15820.946(d)

[Center on Juvenile and Criminal Justice \(CJCJ\)](#), 40 Boardman Place, San Francisco, CA 94103

The Committee should then fact-check the counties' submitted information against the BSCC's own data, such as the Jail Profile Survey, and rank the applications based on the counties' willingness to build facilities that are consistent with a demonstrated desire to reduce their pretrial populations through use of a risk-assessment-based pretrial release program.

**6. Rating Criteria: points should be awarded based on the effectiveness of an applicant's risk-based pretrial release services.**

We ask that counties are not awarded points for simply including a description of their pretrial populations and services, but that this information be evaluated to investigate the quality of an applicants pretrial programming. Applicants should be able to demonstrate a commitment to lowering their jail populations through risk-assessment based alternatives to incarceration before proposing to increase capacity or adding beds.

**7. Rating Criteria: create a minimum scoring threshold that applicants must meet to be awarded funding.**

SB 844 allows the BSCC to establish "minimum standards, funding schedules, and procedures" (Government Code section 15820.945(c)) and "issue up to two hundred seventy million dollars (\$270,000,000) in revenue bonds, notes, or bond anticipation notes, pursuant to Chapter 5 (commencing with Section 15830)"(Government Code section 15820.942(a)). Nowhere does the legislation mandate that this ESC must award all funding allocated to adult local criminal justice facility construction. As provisioned by SB 844, this ESC has the authority to decide a minimum-scoring threshold that proposals must meet in order to receive funding.

This round of funding is unique in that perhaps fewer than 21 counties are eligible for award, significantly diminishing the competitive funding process from 58 eligible grantees. Therefore, it is more likely than in previous funding rounds that, without a minimum scoring threshold, poorly conceptualized proposals that would not, and have not, been competitive, do not effectively address the requirements of the RFP, and do not propose long-term sustainable solutions for local criminal justice systems, could receive full funding.

The legislation states that California no longer has the resources to continue "piecemeal, erratic, and incomplete responses" to problems like overcrowded or antiquate jail facilities (Government Code section 15820.943(a)). To avoid this outcome, we ask that this ESC submit a minimum standard by which all proposals must meet before receiving funding.

**Conclusion and Recommendations**

1. Eligible Projects: emphasize the requirement that eligible projects must add or improve space designated for treatment and rehabilitative services.
2. Eligible Projects: inform applicants that the purpose of this funding can and should include facilities that promote "community-based punishment" as described in Penal Code sections 17.5 and 3450.
3. Rating Criteria: points should be awarded based on the effectiveness of an applicant's sexual assault reduction efforts and in-person visitation capacity.
4. Rating Criteria: points should be awarded based on the viability of an applicant's staffing plan and operations costs in relation to the scope of the proposal.

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5. Statement of Need: pretrial population statistics and descriptions of risk-based pretrial release services should be incorporated into the Statement of Need.
6. Rating Criteria: points should be awarded based on the effectiveness of an applicant's risk-based pretrial release services.
7. Rating Criteria: Create a minimum scoring threshold that applicants must meet to be awarded funding.

Sincerely,

Erica Webster  
Communications and Policy Analyst  
Center on Juvenile and Criminal Justice (CJCJ)

# Public Comment Letter

## Legal Services for Prisoners with Children

Received By the BSCC

**November 8, 2016**



November 9, 2016

Senate Bill 844 Executive Steering Committee  
Board of State and Community Corrections  
2590 Venture Oaks Way  
Sacramento, CA 95833

**Re: RFP for Adult Local Criminal Justice Facilities Construction Funding**

Dear Committee Members:

We write to provide public comment on the second draft of the Request for Proposals (RFP) in connection with awarding \$250,000,000 for the construction of adult local criminal justice facilities under Senate Bill (SB) 844. The RFP will assert the types of projects the BSCC seeks to fund and the criteria by which the BSCC shall evaluate them. This RFP is therefore critical in the determination of what the next generation of local criminal justice facilities and practices will be. Additionally, the BSCC is bound by the text of Government Code 15820.946 in awarding the funding.

Founded in 1978, LSPC enjoys a long history advocating for the civil and human rights of people in prison, their loved ones, and the broader community. We believe that the escalation of tough-on-crime policies over the past three decades has not made us safer – that in order to build truly safe and healthy communities we must ensure that all people have access to adequate housing, quality health care and education, healthy food, meaningful work, and the ability to fully participate in the democratic process, regardless of their involvement with the criminal justice system.

We were deeply dissatisfied by the outcome of the draft RFP after this executive steering committee (ESC) met on October 20, 2016. The updated draft RFP fails to consider or promote key elements of SB 844, most importantly to us, those that relate to in-person visits. SB 844 has two separate requirements regarding in-person visiting. Under the newly amended Government Code 15820.946 (b), the BSCC is required to evaluate each facility's capacity to provide in-person visitation, and under 15820.946 (f) each facility is required to provide in-person visitation. These are two separate requirements that both must be met.

**County Jail In-Person Visitation Practices Must Be Evaluated**

**The mandatory in-person visitation capabilities of applicants must be evaluated, and the RFP must request data and documentation associated with in-person visitation practices.** Contrary to the clear text of the Government code, the current RFP does not ask for additional information from counties to ensure applicants are meeting the key eligibility components of SB 844.

1540 Market St., Suite 490  
San Francisco, CA 94102  
Phone: (415) 255-7036  
Fax: (415) 552-3150

[www.prisonerswithchildren.org](http://www.prisonerswithchildren.org)

The current draft RFP does not require applicants to provide any documentation of how their visitation programs meet or surpass the minimum number of weekly visits required by the state. Additionally, the RFP does not apply a scoring apparatus to this requirement. The state and the BSCC should be incentivizing counties to reach beyond minimal standards when it comes to practices that connect and support family development and well-being. Therefore, applicants seeking funding must provide information about 1) their facility visitation space and the number of weekly visits facilitated, and 2) this ESC must evaluate the applicants' commitment to providing in-person visitation in their county jails by adding rating criteria on this subject.

**County Jails are Required to Have In-Person Visiting Facilities to Meet Minimum Visiting Hours under Title 15.**

The Government Code reads:

“Any locked facility constructed or renovated with state funding awarded under this program shall include space to provide onsite, in-person visitation capable of meeting or surpassing the minimum number of weekly visits required by state regulations for persons detained in the facility.”  
Government Code section 15820.946 (f)

This requirement is an explicit eligibility mandate that was not present in previous rounds of adult local criminal justice facility funding legislation. The BSCC must change its procedures to ensure that counties that wish to access this funding provide this required visiting. Even a high ranking facility which doesn't have a plan for in-person visiting may not receive state funds under SB 844.

We urge you to make these mandatory changes to the RFP to ensure that people incarcerated in county facilities will have access to visits with their families and loved ones.

Sincerely,



Eva DeLair  
Staff Attorney  
Legal Services for Prisoners with Children

# Public Comment Letter

Bernadette Rabuy, Senior Policy Analyst, Prison Policy Initiative

Carole Urie, Executive Director, Returning Home Foundation

Emily Harris, State Field Director, Ella Baker Center for Human Rights

Erica Webster, Communications and Policy Analyst, Center on Juvenile and Criminal  
Justice

Juan Gomez, Director of Programs and Innovation, Motivating Individual Leadership for  
Public Advancement

Linda McFarlane, Deputy Executive Director, Just Detention International

Lynn Wu, Staff Attorney and Juvenile Justice Policy and Projects Manager, Prison Law  
Office

Marcus McKinney, Policy Director, PICO California

Melissa Goodman, Director, LGBTQ, Gender & Reproductive Justice Project, ACLU of  
California

Received By the BSCC  
**November 8, 2016**

# Returning Home Foundation



PRISON LAW OFFICE



AMERICAN CIVIL LIBERTIES UNION  
of CALIFORNIA

ACLU



Center on Juvenile  
and Criminal Justice



PICO California  
Unlocking the Power of People™

November 8, 2016

Senate Bill 844 Executive Steering Committee  
Board of State and Community Corrections  
2590 Venture Oaks Way  
Sacramento, CA 95833

Re: RFP for Adult Local Criminal Justice Facilities Construction Funding

Dear Executive Steering Committee Members,

We write to provide public comment on the second draft of the Request for Proposals (RFP) in connection with awarding \$250,000,000 for the construction of adult local criminal justice facilities. The RFP will assert the types of projects the BSCC seeks to fund and the criteria by which they will be evaluated. This RFP is therefore critical in the determination of what the next generation of local criminal justice facilities and practices will be.

We were deeply dissatisfied by the outcome of the draft RFP after this executive steering committee (ESC) met on October 20, 2016. The updated draft RFP fails to consider or promote key elements of Senate Bill (SB) 844, such as sexual assault reduction efforts, in-person visitation, or pretrial services in county jails.

## County Jail In-Person Visitation Practices Must Be Evaluated

**The mandatory in-person visitation capabilities of applicants must be scored in the rating criteria, and the RFP must request data and documentation associated with in-person visitation practices.** The current RFP does not rate or ask for additional information from counties to ensure applicants are meeting the key eligibility components of Senate Bill 844. Significantly, SB 844 states:

“Any locked facility constructed or renovated with state funding awarded under this program shall include space to provide onsite, in-person visitation capable of meeting or surpassing the minimum number of weekly visits required by state regulations for persons detained in the facility.”  
Government Code section 15820.946 (f)

This requirement is an explicit eligibility mandate that was not present in previous rounds of adult local criminal justice facility funding legislation. The RFP requirements and rating criteria should clearly reflect the Legislature’s intention to prioritize funding for counties that have demonstrated a commitment to in-person visitation access.

The current draft RFP does not require applicants to provide any documentation of how their visitation programs meet or surpass the minimum number of weekly visits required by the state. Additionally, the RFP does not apply a scoring apparatus to this requirement. The state and the BSCC should be incentivizing counties to reach beyond minimal standards when it comes to practices that connect and support family development and well-being. Therefore, applicants seeking funding must provide information about 1) their facility visitation space and the

number of weekly visits facilitated, and 2) this ESC must evaluate the applicants' commitment to providing in-person visitation in their county jails by adding rating criteria on this subject.

## **The Quality of County Jail Sexual Assault Reduction Efforts Must Be Scored**

**The mandatory description of sexual assault reduction efforts must be scored in the rating criteria, and the RFP must request documentation and data associated with sexual assault reduction efforts.** Again, the current RFP does not rate or ask for data or documentation from counties to ensure applicants are meeting the key eligibility components of Senate Bill 844. Significantly, SB 844 states:

“Any county applying for financing authority under this program shall include a description of efforts to address sexual abuse in its adult local criminal justice facility constructed or renovated pursuant to this chapter.” Government Code section 15820.946 (g)

As it stands, the draft RFP ignores the intentions of the legislation to prioritize funding to counties that have demonstrated a commitment to reducing sexual assaults against people in county jails. By merely requiring a description of sexual assault reduction efforts without scoring criteria associated with the effectiveness of the applicant's efforts to reduce sexual assaults, an applicant could accurately describe its limited, nonexistent, or poorly conceptualized sexual assault reduction program and retain eligibility without receiving a reduced score.

As such, this RFP should ask not only for a description of how an applicant has addressed sexual assault in their facilities, but should award points based on a scale determining the quality of the description, and the effectiveness of their sexual assault reduction approach. This is essential for protecting the safety and security of persons who are in California's jails.

## **Pretrial Population and Pretrial Services Must Be Evaluated**

**County jail pretrial populations and available pretrial services must be scored according to an applicant's demonstrated commitment to reducing the incarceration of those with a low-risk of reoffending.** SB 844 contains the following specific mandatory criterion for evaluating the counties' requests for funding:

“The funding criteria shall include, as a mandatory criterion, documentation of the percentage of pretrial inmates in the county jail from January 1, 2015, to December 31, 2015, inclusive, and a description of the county's current risk assessment based pretrial release program.” Government Code section 15820.946(b)

As it stands, the draft RFP asks only that applicant's include this mandatory information, but does not rate the quality of the response. As such, an applicant could report a high pretrial population, describe ineffective or nonexistent pretrial services, and yet request to expand rated capacity. In this scenario, the scoring apparatus in the RFP as it stands would not allow this ESC to reduce the applicant's awarded points.

We ask that counties are not awarded points for simply including a description of their pretrial populations and services, but that an applicant's pretrial programming be accurately evaluated. Applicants should be able to demonstrate a commitment to lowering their jail populations through risk-assessment based alternatives to incarceration, before proposing to increase capacity.

## **Create Minimum Standards to Safeguard Against Funding Poor Proposals**

**Create minimum scoring thresholds to ensure that taxpayer dollars are not wasted on poorly conceived projects, which do meet the rehabilitative intentions of SB 844.**

SB 844 allows the BSCC to establish “minimum standards, funding schedules, and procedures” (Government Code section 15820.945(c)) and “issue up to two hundred seventy million dollars (\$270,000,000) in revenue bonds, notes, or bond anticipation notes, pursuant to Chapter 5 (commencing with Section 15830)” (Government Code section 15820.942(a)). Nowhere does the legislation mandate that this ESC must award all funding allocated to adult local

criminal justice facility construction. As provisioned by SB 844, this ESC has the authority to decide a minimum-scoring threshold that proposals must meet in order to receive funding.

This round of funding is unique in that perhaps fewer than 21 counties are eligible for award, significantly diminishing the competitive funding process from 58 eligible grantees. Therefore, it is more likely than in previous funding rounds that, without a minimum scoring threshold, poorly conceptualized proposals that would not, and have not, been competitive, do not effectively address the requirements of the RFP, and do not propose long-term sustainable solutions for local criminal justice systems, could receive full funding.

The legislation states that California no longer has the resources to continue “piecemeal, erratic, and incomplete responses” to problems like overcrowded or antiquate jail facilities (Government Code section 15820.943(a)). To avoid this outcome, we ask that this ESC submit a minimum standard by which all proposals must meet before receiving funding.

## Transparency

**The BSCC staff should make public all applications submitted by counties seeking to construct adult local criminal justice facility projects.** At the October 20, 2016, BSCC General Counsel stated that submitted county applications would not be made publically available until after the ESC had completed the rating process and finalized scores of the applications.

There is a great deal of community interest in the applications to build criminal justice facilities, and the public reserves the right to review these documents in a timely manner by the time they are submitted to the BSCC. Providing these documents for public review would not only improve the perception of inclusivity around the BSCC, but it would increase transparency around this process and allow for valuable public comment.

For example, in the previous round of construction funding through Senate Bill 863, public comment highlighted that Butte County intended to improperly use its Inmate Welfare Fund (a fund designated to serve people in county jails, not for construction projects) to pay for the construction of its programming space. The public concern about the improper use of this fund was brought to the ESC’s attention and ultimately caused the Board to instruct Butte County to find alternative funding. This example of ESC oversight reinforces the need for the BSCC to make applications public as soon as they are received.

Sincerely,

Bernadette Rabuy, Senior Policy Analyst, Prison Policy Initiative

Carole Urie, Executive Director, Returning Home Foundation

Emily Harris, State Field Director, Ella Baker Center for Human Rights

Erica Webster, Communications and Policy Analyst, Center on Juvenile and Criminal Justice

Juan Gomez, Director of Programs and Innovation, Motivating Individual Leadership for Public Advancement

Linda McFarlane, Deputy Executive Director, Just Detention International

Lynn Wu, Staff Attorney and Juvenile Justice Policy and Projects Manager, Prison Law Office

Marcus McKinney, Policy Director, PICO California

Melissa Goodman, Director, LGBTQ, Gender & Reproductive Justice Project, ACLU of California

# Public Comment Letter

## Rural County Representatives of California

Received By the BSCC

**November 10, 2016**

November 7, 2016

Ms. Linda Penner, Chair  
Board of State and Community Corrections  
2590 Venture Oaks Way, Suite 200  
Sacramento, CA 95833

**RE: Awarding Process for Jail Construction Monies**

Dear Chair Penner:

On behalf of the Rural County Representatives of California (RCRC), we write to urge your support of the Executive Steering Committee's (ESC) Request for Proposal (RFP) recommendations for local jail construction funding. RCRC is an association of thirty-five rural California counties and the RCRC Board of Directors is comprised of elected supervisors from those member counties.

RCRC member counties have various challenges with funding major reconstruction and rehabilitation of their local jail detention facilities, and the majority of our member counties do not have adequate population or revenue streams to construct these facilities without dedicated state assistance. In previous jail construction programs over the past ten years, we have urged the inclusion of monies dedicated for small counties with populations fewer than 200,000. We are pleased the latest RFP continues this set-aside. Additionally, the RFP provides a process for small counties to petition the Board of State and Community Corrections (BSCC) for a reduced match requirement. California's rural county supervisors appreciate the recent work of the ESC and BSCC staff to ensure that rural communities have the ability to construct much-needed jail detention facilities.

We believe the overall small county considerations, as currently proposed, support the recommendations our organization has historically supported. RCRC remains a resource to you if you should have any questions or concerns. If you should have any questions or concerns, please do not hesitate to contact me at (916) 447-4806.

Sincerely,



PAUL A. SMITH  
Senior Legislative Advocate

cc: Kathleen Howard, Executive Director, Board of State and Community Corrections  
Members, Board of State and Community Corrections

# Public Comment Letter

Bernadette Rabuy, Senior Policy Analyst,  
Prison Policy Initiative

Erica Webster, Communications and Policy  
Analyst, Center on Juvenile and Criminal  
Justice

Juan Gomez, Director of Programs and  
Innovation, Motivating Individual Leadership for  
Public  
Advancement (MILPA)

Received By the BSCC

# November 15, 2016



Center on Juvenile  
and Criminal Justice

November 15, 2016

Board of State and Community Corrections  
2590 Venture Oaks Way  
Sacramento, CA 95833

Re: SB 844 Adult Local Criminal Justice Facilities Construction RFP

Dear Board Members,

We write to provide public comment to the members of the Board of State and Community Corrections (BSCC) regarding the Senate Bill (SB) 844 Adult Local Criminal Justice Facilities Construction Request for Proposals (RFP) awarding \$250,000,000 to counties. This RFP will assert the types of projects the BSCC seeks to fund and is therefore critical in the determination of what the next generation of local jail facilities and practices will be. We were deeply dissatisfied by the finalized RFP after the executive steering committee (ESC) met on November 10, 2016. The RFP fails to promote key elements of SB 844, such as sexual assault reduction efforts, in-person visitation, or pretrial services in county jails.

### **Proposed County Jail In-Person Visitation Practices Must Be Explicit**

**Applicants must explicitly state that any proposed locked facility project will include, or already includes, space designated solely for in-person visitation.** Senate Bill 844 states:

“Any locked facility constructed or renovated with state funding awarded under this program shall include space to provide onsite, in-person visitation capable of meeting or surpassing the minimum number of weekly visits required by state regulations for persons detained in the facility.” Government Code section 15820.946 (f)

This requirement is an explicit eligibility mandate that was not present in previous rounds of facility funding legislation. As such, the RFP should clearly reflect the Legislature’s intention to mandate in-person visitation as a condition for this award. Therefore, we recommended including, on Page 1 of the RFP, an additional letter heading titled “Eligibility Criteria” with a box to be checked if “The proposed new or renovated project includes space designated solely for the purposes of in-person visitation as defined on Page 38 of the RFP (Title 15 and 24 Definitions - “In-person visit” and “In-person visitation”).”

The current draft RFP also does not require applicants to provide a description of their proposed in-person visitation program(s). Therefore, we recommend including, on Page 9 of the RFP, an added bullet point asking applicants: “How will in-person visitation be administered in the proposed new or renovated facility?”

## **The Quality of County Jail Sexual Assault Reduction Efforts Must Be Scored**

**The mandatory description of sexual assault reduction efforts must be scored in the rating criteria.**

SB 844 states:

“Any county applying for financing authority under this program shall include a description of efforts to address sexual abuse in its adult local criminal justice facility constructed or renovated pursuant to this chapter.” Government Code section 15820.946 (g)

Without scoring criteria to evaluate county descriptions of sexual assault reduction plans, the finalized RFP does not fulfill the intention of the legislation to promote effective sexual assault reduction measures. By merely requiring a description, an applicant could accurately describe a poorly conceptualized sexual assault reduction program and retain eligibility without receiving a reduced score. As such, this RFP should not only require a description of how an applicant’s plan to address sexual assault in their facilities, but should award points based on a scale evaluating the effectiveness of their sexual assault reduction approach.

The SB 844 ESC and BSCC staff have stated that is outside the scope their abilities to evaluate sexual assault reduction efforts proposed by counties, and therefore have not included rating criteria. However, the BSCC can solicit technical assistance or guidelines from experts about effective sexual assault reduction measures upon which ESC members could be trained during their rater’s training meeting. This is essential for protecting the safety and security of persons detained in California’s jails.

## **Pretrial Population and Pretrial Services Must Be Evaluated**

**County jail pretrial populations and available pretrial services must be scored according to an applicant’s demonstrated commitment to reducing the incarceration of those with a low-risk of reoffending.** SB 844 contains the following specific mandatory criterion for evaluating the counties’ requests for funding:

“The funding criteria shall include, as a mandatory criterion, documentation of the percentage of pretrial inmates in the county jail from January 1, 2015, to December 31, 2015, inclusive, and a description of the county’s current risk assessment based pretrial release program.” Government Code section 15820.946(b)

By including this information as mandatory criterion, it is clear that the intention of SB 844 is to ensure that counties demonstrate a commitment to lowering their jail populations through risk-assessment based alternatives to incarceration before proposing to increase capacity.

However, the RFP asks only that applicant’s include this mandatory information, but does not rate the quality of their responses. As such, an applicant could report a high pretrial population, describe ineffective pretrial services, and yet request to expand rated capacity. In this scenario, the scoring apparatus in the RFP would not allow the ESC to adjust the applicant’s awarded points. We ask that counties are not awarded points for simply including a description of their pretrial populations and services, but that an applicant’s pretrial programming be evaluated on a scale

Adjusting for the proposed rating criteria for both sexual assault reduction and pretrial scoring, we recommend that the evaluation factors on Page 13 be changed as reflected below in red:

Evaluation Factor		Scoring Method	Percentage	Weighted Score
1	<b>Sexual Assault Reduction Plan</b>	<b>0-12</b>	<b>5%</b>	<b>18</b>
2	Statement of Need	0-12	15%	18
3	Scope of Work SF A/B: Feasible plan to replace compacted housing/ expand program/ treatment space	0-12 0-4	<b>20%</b>	18 4
4	Programming Services SF A: Documents Pretrial inmate percentage SF B: Describes risk assessment-based pretrial release process	0-12 <b>0-4</b> <b>0-4</b>	10%	30 4 4
5	Administrative Work Plan	0-12	10%	12
6	Budget Narrative	0-12	10%	12
7	A. Readiness: Board Resolution	0-12	10%	12
	B. Readiness: CEQA Compliance	0-12	15%	18
Total Points		<b>108</b>	100%	<b>150</b>

## **Create Minimum Standards to Safeguard Against Funding Poor Proposals**

**Create minimum scoring thresholds to ensure that taxpayer dollars are not wasted on poorly conceived projects that do not meet the rehabilitative intentions of SB 844.**

SB 844 allows the BSCC to establish “minimum standards, funding schedules, and procedures” (Government Code section 15820.945(c)) and “issue up to two hundred seventy million dollars (\$270,000,000) in revenue bonds, notes, or bond anticipation notes, pursuant to Chapter 5 (commencing with Section 15830)” (Government Code section 15820.942(a)). Nowhere does the legislation mandate that *all* funding must be allocated to adult local criminal justice facility construction. As provisioned by SB 844, the BSCC has the authority to decide a minimum-scoring threshold that proposals must meet in order to receive funding.

This round of funding is unique in that perhaps fewer than 21 counties are eligible for award, significantly diminishing the competitive funding process from 58 eligible grantees. Therefore, it is more likely than in previous funding rounds that, without a minimum scoring threshold, poorly conceptualized proposals that would not, and have not, been competitive, do not effectively address the requirements of the RFP, and do not propose long-term sustainable solutions for local criminal justice systems, could receive full funding.

The legislation states that California no longer has the resources to continue “piecemeal, erratic, and incomplete responses” to problems like overcrowded or antiquate jail facilities (Government Code section 15820.943(a)). To avoid this outcome, we ask that the RFP include a minimum standard that all proposals must meet before receiving funding.

## Transparency

**The BSCC staff should make public all applications submitted by counties seeking to construct adult local criminal justice facility projects.** At the October 20, 2016, SB 844 ESC meeting, BSCC General Counsel stated that submitted county applications would not be made publically available by the BSCC until after the ESC completes the rating process and finalizes scores of the applications.

There is a great deal of community interest in the applications to build criminal justice facilities, and the public reserves the right to review these documents in a timely manner by the time they are submitted to the BSCC. Providing these documents for public review would not only improve the perception of inclusivity regarding the BSCC, but it would increase transparency around this process and allow for valuable public comment.

For example, in the previous round of construction funding through Senate Bill 863, public comment highlighted that Butte County intended to improperly use its Inmate Welfare Fund (a fund designated to serve people in county jails, not for construction projects) to pay for the construction of its programming space. The public concern about the improper use of this fund was brought to the BSCC Board's attention and ultimately caused the Board to instruct Butte County to find alternative funding. This example of positive public oversight reinforces the need for the BSCC to make applications public as soon as they are received.

SB 844 states that California no longer has the resources to continue erratic responses to problems like overcrowded or antiquate jail facilities. To avoid this outcome, we hope that the BSCC Board members will consider our recommended changes to the SB 844 RFP.

Sincerely,

Bernadette Rabuy, Senior Policy Analyst, Prison Policy Initiative  
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Juan Gomez, Director of Programs and Innovation, Motivating Individual Leadership for Public Advancement (MILPA)