# "We Are Better Together"
# An In-Depth Review of the Intersection of Serious Mental Illness, Conservatorships, Criminal Justice and Incompetent to Stand Trial, and Institutions for Mental Disease

**By: The Behavioral Wellness Commission of Santa Barbara County**

## Backgound:

Beginning in May of 2019, the Commission agendized the subject of this report as a response to two issues:

1. The sense that there aren't enough conservatorships and options for the ability to force treatment for those who are seriously mentally ill, but not willing to accept treatment.
2. The statement by Supervisor Williams, when he was liaison to this commission, that we seem to conserve more people in this county than other counties, and that this process is very expensive.

The commission conducted three separate hearings on the subject. A brief summary of those is presented below:

**May: Conservatorships, Incompetent to Stand Trial, and Institutes of Mental Disease.** We learned about LPS (Lanterman-Petris-Short) Conservatorships where candidates must be considered 'severely and gravely disabled' by mental disease. The county Behavioral Wellness department makes the determination, and there is ambiguity around that process. If the determination is made, a public guardian is then appointed by the court.

**All of this is paid for by the county.**

When conserved, the intention is for the patient to go into an **Institute of Mental Disease (IMD).** These are locked-down facilities. IMD placements cost between $225 / day and $1000 / day.

IMD costs are **not reimbursable** by MediCal. That means they are paid out of the county's general fund contribution to Behavioral Wellness' annual budget, currently set at $5 million annually.

Immediate acute crisis care is served by a stay in the county's Psychiatric Health Facility (PHF), which costs $2,250 per day for acute care, reimbursable at only 50% by MediCal. Less acute care is billed at a rate of $1,500 per day, and is not reimbursable.

**Incompetent-to-stand-trial** individuals would normally be sent to the PHF. Some are in the PHF or jail awaiting transfer to a state mental facility, and a backup of 8 months or more has been reported.

A jail census conducted twice in the past two years found **that more than half** of those in the jail had prior contact with the Behavioral Wellness Department. Jail-based competency programs are being put in place for ISTs in the jail.

**Santa Barbara County is the only county in California where enforcement officers are not allowed to write 5150 holds**. No one seems to know why this is the case. That meant jail was the only place to take mentally ill individuals, and the more recent alternative is to leave them in place in the community. Behavioral Wellness has 100+ people on staff that can write 5150 holds, has opened the CSU and encouraged enforcement to use it to check in mentally individuals, and partnered in co-response pilots, alleviating some of the lack of enforcement 5150 capabilities.

**June: Dr. Ole on the process of conservatorships in Santa Barbara County**
In 2017, there were 139 conservatorships for this county, and 69 placements in IMDs. There clearly is a gap in the state and county for IMD beds, as none exist here other than the PHF.
5150 placements are not always in county, due to lack of beds. Dr. Ole estimates needed capacity here to be 40 beds.
Crisis residential and Crisis Stabilization Unit are filling gaps, as the CSU can keep people for more than 23 hours if they're interested in treatment, but more psychiatric beds for acute cases are clearly needed.

**July: Criminal Justice, Co-Response, and Stepping Up**

**Speakers:**

Public Defenders Office: Susan Sandelard
SBSO Custody Deputy Vince Wasilewski
SBSO Stepping Up Program- Kevin Huddle
SBSO Lt Lambert
SBSO Dr. Lee – Co-response team
District Attorney's Office: John Savrnoch

Perhaps the most informative of the hearings, we learned that Murphy conservatorships are a major problem. These are granted in IST cases, but there is a dramatic shortage of beds across the state, particularly acute for women. So most wait in jail. If a Murphy case is brought from hospital for a court-ordered competency hearing, the bed immediately is assigned to someone else, and the individual that went to their court competency hearing is then moved to the back of the queue for a bed. The waitlist is 821 statewide, as of the end of June.

Criminal justice tends to be the system where these issues get forged and escalated so that action to remedy can occur. The Sheriff is seeking to have the jail qualified as a competency treatment site so assessments can be conducted. The sheriff is contracting for 10 beds for this purpose. Those requiring medication would still be referred to state hospital. Medically Assisted Treatment for those with addictions is going to be made available at the jail, which will be very helpful.

Waits for state hospital and transport issues are only for felony IST cases. Misdemeanor cases go to the PHF, though some counties transport misdemeanor cases to state hospitals. Santa Barbara county does not.

There are less state hospital beds for Murphy conservatorship cases, which is a problem because these people still need an acute level of care. The criminal indictment pending on these cases makes them rather urgent.

A major step forward is coordinating individuals into diversion rather than jail, and the sheriff's Stepping Up Initiative and Co-Response are aimed firmly in that direction. Co-response separates enforcement cases from treatment cases, and diverts individuals into treatment accordingly. They have had approximately 500 contacts so far, 60 opportunities for arrest, and only 7 taken in.

The problem is this is a bit of a pilot, and the hours are limited to Tuesday through Friday 8 AM to 6 PM. The geographic area is also limited to south county, which is a large swath of territory. Efforts are underway to expand this program, and should be encouraged. There are also some shortfalls with answering calls to service specifically requesting co-response, as will be discussed in the individual cases we'll present to you.

Unfortunately, even with these noble efforts, if a person doesn't meet the criteria for conservatorship, and is declared IST, and there's no reason to hold them, the court has no choice but to release them to the street.

This is not good for our communities.

Stepping Up holds a great deal of promise for providing a one-stop-shop where people can get treatment, connect with health services, job training, and more. It would require cooperation across multiple entities to succeed, and the philanthropic requirement is steep. However, it may serve to bridge many of the gaps that will be illustrated to you in this document.

SB 1810 and Prop 47 grants have been sought and obtained by Behavioral Wellness. These will add needed resources to the problem in assisting with crisis services for these individuals and more co-response. It's not known if they'll close the considerable gap in this area.

(there is an opportunity for conservatorship flowchart here, with Murphy distinguished from LPS, and the pitfalls therein)

## Individual Cases That Illustrate Shortages In The Present And Emerging Systems

In the past 2 weeks, commissioners have personally encountered 3 different cases that highlight these issues with stark clarity, and show where shortfalls, even between willing and collaborating departments, still exist. Real names are not revealed below, though the cases are documented in enforcement and Be Well systems, as well as other counties' systems.

1. Dolores – found wandering in the road in the Upper Village, Montecito. Our chair encountered this homeless individual in early July and began a relationship with her, leveraging homeless outreach experience gained on the Milpas Outreach Project. It quickly emerged that Dolores was in her 70's, relatively new to the area, and suffering from schizophrenia. This manifested as a stark adherence to being a Jehovah's Witness, with a strong prohibition imposed from accepting any help from anyone other than a fellow Witness. After making contact with multiple local Witness organizations, who had already encountered this lady and would not assist her other than welcoming her to church services, the commissioner

contacted the Behavioral Wellness Homeless Outreach services. They made multiple contacts with Dolores, usually after phone requests by the commissioner to do. She continued to refuse services, and became agitated with repeated contact. She revealed she had been conserved by her daughter in LA County, and had been in the mental health system in LA, Ventura and Santa Barbara Counties. She revealed her teeth had been knocked out in Goleta in an attack. At the same time, the Montecito community began to signal her presence was not welcomed, with coffee shops refusing her service, and then the county confiscated 2 of her 3 shopping carts after posting appropriate notice, causing her to become extremely agitated. Sensing a possible chance that a break was coming, and the individual might be receptive to services, the commission chair called Homeless Outreach Services, but the caseworker's phone wasn't working. After connecting with the supervisor of the team, it was agreed that the commissioner would refer this case to Assisted Outreach Treatment (AOT). After going through the intake process for AOT, it became clear that community member referrals are not really valid, but enforcement could make the referral, or a doctor or treatment professional. Unfortunately, Dolores will not willingly engage with any of these agencies, as it's against her religion. At this point, there is probably no route left but to try co-response and encourage them to make the referral. It is a lot to ask of a community member to try to navigate all these systems to find someone that can help, and the community member in question is the Behavioral Wellness Commission Chair! Dolores is still living in Manning Park, sleeping occasionally at the bus stop in front of Our Lady of Mt Carmel, and wandering in the street. She does not engage in substance use.

2. Sally – She became visible to the Coast Village and Upper Village communities in January of this year when she would appear in the middle of the road on her hands and knees. Multiple contacts with law enforcement ensued, and she has been placed on multiple psychiatric holds for 72 hours. She consistently refuses treatment, though she is clearly endangering herself and others as she sometimes engages in this behavior of getting in the road on hands and knees at night, and the area is not well lit. She is well known to the co-response team, but her case has not been escalated beyond the 72-hour holds. There is frustration in the enforcement community that we keep repeating this process with her, only to encounter again after 72 hours. The community does not understand why they continue to see her in the road on her hands and knees, and why there seems to be no help for her, though many hours have been spent at this point trying to deal with her and assist her.
3. Rod's case in the park, which mingles substances in with this.

These very recent cases illustrate that despite new services introduction by Be Well, and the beginning stages of collaboration between Be Well and enforcement in co-response, **chronic mental illness remains persistently hard to solve** because people can and do refuse treatment**.** When these individuals are homeless as a result of their condition, they present exceedingly difficult cases, which sheds some additional light on why homelessness is also so hard to solve. It continues to fall to enforcement to respond to these cases, and with limited co-response hours, the community clearly does not have access to needed services when they are needed to move these cases forward. One call to dispatch for co-response only produced SBSO in response, as the Be Well ACT team in South County refused the call, and later pleaded, under scrutiny from the Be Well Commission, that their phones weren't working. Additionally, cases like these indicate

that Be Well's programs of outreach, while certainly welcome, are not nearly arduous nor goal-directed enough to induce someone to want to make a change and go into treatment. AOT remains a limited resource, and only certain individuals can make referrals.

The net from these very recent cases is that the entities providing services remain somewhat silo in their operation, with little of the rigorous coordination between them that is required to move these cases forward. Inroads are being made, and this is major progress. But merely offering services that the community and the seriously mentally ill then have to figure out how to navigate, that don't produce consistent responses and don't feature a take-charge attitude, will not solve this problem.

**Assertive, even aggressive, outreach and mandated coordination with measurable results will be required to make a difference .**

3. Now the hard part (providing them with the details of what's wrong). I think bullet points might be the most concise way to do this?

A. Outreach prior to becoming a problem: ACT and AOT teams have mixed results. Understaffed for sure. Follow thru for ACT in South County a problem and statistics/data lacking for all.

B. Sheriff's inability to write 5150's. This is the most immediate jail diversion.

C. If 5150 is in place, person often back on street in 72 hours.

D. For those with mental health disorder who are arrested: lack of service in jail, court appearances, stuck in cycle.

E. IST's: often wait in jail for months for treatment.

F. Conservatorships: Do we know if we have an unrealistic number conserved or are we just doing a better job than other counties?

G. Testimony at BeWell Commission Meeting: Briefly discuss the stories of those who testified at our commission meetings without giving names, details, etc.

4. End the presentation with timeline we talked about at breakfast. This would be the "ask". Which is coordination, concerted effort with mandates to work across lines to get people into treatment. The systems operate as silos, and though there is agreement to work together, as in Stepping Up, which holds a lot of promise, the machinery is not yet in play, and needs to be. The brick wall of not being able to force people into treatment is huge and hard to surmount. The goal should always be indoors, getting treatment, and stabilized. Until the county sets a goal of say, 250, of these individuals will be moved into this situation within one year, and lines up the systems and departments to execute to that goal, we're not going to see real progress.

I hope this is kind of what you were looking for Sharon? I think we should stress the high cost of business as usual under number 3 above. I was trying to keep it simple because I doubt we'll have more than 30 minutes to present unless it's a really slow day at the Board. Please don't be afraid to tear this apart if I've missed the mark.
PS - How'd the Stepping Up meeting go today?