

## Report to the Board of Supervisors From The Behavioral Wellness Commission of Santa Barbara County for 2019

### Recommended Actions for the Board of Supervisors:

We strongly recommend the Supervisors consider the following courses of action in order to reduce the problems associated with serious mental illness, in which the person suffering is refusing to accept treatment. Consider applying measures of performance that drive for measurable outcomes:

1. **Press the California Department of Public Health to begin the application process for an IMD waiver to obtain Medicaid reimbursement for mental health treatment.** The Commission is happy to assist with lobbying and public awareness efforts on this front.
2. **Review the data results from Assertive Outreach Models, such as ACT and AOT, and determine if they should continue, need some restructuring, or be replaced with something more effective.** Particularly for South County, where the cost is higher and effectiveness is low
3. **Authorize a study of the use of conservatorships in our county, especially against comparable counties.** There's a sense in the community we don't do enough conservatorships, and too many people are suffering that will not accept treatment otherwise. Without a study, we don't have a way to gauge if we're doing enough, not enough, or too much on this front.
4. **Appoint a cross-department task force to tackle the toughest cases and get them indoors, treated and stable.** Aggressively manage these cases end-to-end to get them *stable, indoors, and accepting treatment*. Partners will discover all the holes we've outlined here, plus some, and work to fix them inter-departmentally. If their budgets and performance reviews are tied to achieving such a goal, they would re-architect work and forge stronger, more cooperative relationships. The Sheriff's Stepping Up Program is attempting to navigate some of this terrain, but as of now, has not taken on the role of case management with an intent to reduce the number of severely mentally ill individuals in the criminal justice system or on the streets in Santa Barbara County.

### Introduction:

First and foremost, we must continually remember that we are dealing with human beings, the most complex living organisms on the planet. While modern medicine has made great strides, particularly in the past 150 years, psychiatry is far younger, by thousands of years, and as such, doesn't have all the answers. We can't heal your mind the way we can set your broken bone or cure you of bronchitis. You might not cause much familial or societal disruption with a medical illness, but you can cause a great deal with a mental one.

Second, the courts have continually made it more difficult to deal with mental illness, repeatedly finding in favor of an individual's civil rights to refuse treatment, even if that increases society's problems and resultant costs.

If a person suffering a debilitating mental illness does not want treatment, we simply cannot compel them into it.

Absent that, the best we've been able to do is leverage the options still available to us,

while pioneering more Behavioral Wellness outreach in the community. These we have explored at length in the Commission, with several of our members having had direct experience. We sought to hear from departments who also deal with these issues, and listened intently to broad community testimony.

**Background:**

**A Lanterman-Petris-Short (LPS) conservatorship** is a civil legal process, governed by the California Welfare and Institutions Code (WIC), which gives the conservator the authority to provide direction for individualized treatment, supervision, and placement intended solely to treat the client's mental illness. LPS provides strict criteria for the finding of grave disability, which must be observed by the referring psychiatrist and the court.

Conservatorship may be initiated only by a psychiatrist's referral to a county's Psychiatric Medical Director who, after review, makes a formal referral to the Public Guardian's office to prepare an investigation for the court. A Public Defender is then assigned to represent the individual. Once granted, a conservatorship lasts for **one year**, and is administered by the public guardian. If the client leaves the state, the conservatorship is automatically terminated.

**Court-ordered conservatorship** mandates involuntary treatment for persons who refuse or are unable to participate voluntarily, often because of their anosognosia or "lack of insight", a symptom of severe mental illness that impairs a person's ability to perceive his or her illness.

People who've been conserved need to then be placed and monitored, and given our housing crisis, suitable places are in drastically short supply.

**One of the most egregious reasons there are so few beds in state hospitals or other inpatient care is the cost:** This is a result of the discriminatory IMD (Institute for Medical Disease) Exclusion. Medicaid (MediCal in California) does not permit reimbursement for mental health or addiction treatment in institutions of more than 16 beds, and 16-bed facilities are not economical to run, given the major overhead costs of an inpatient facility, resulting in a chronic shortage of beds. Currently well over 800 conserved persons across the state are waiting for inpatient beds!

The IMDs that are available that are larger, are mostly privately-run, and have no incentive to control costs.

In 2018, Medicaid made it possible for each state to apply for a waiver of this exclusion, but California's Department of Public Health, has dragged its feet in applying for a waiver for mental health hospitals, in spite of appeals from advocates.

**Jail Conservatorships, and Incompetent to Stand Trial Cases:** Some severely mentally people are criminally-justice involved, and either in jail, or under a Murphy Conservatorship. These await transfer to a state mental hospital where hopefully treatment can make them competent at some point to stand trial. They're returned to jail for their hearing, and if found incompetent again, go to the back of the queue to await another placement at a state mental hospital.

All of this happens on the county's nickel. Supervisors have expressed concerns about rising costs on all fronts related to this process.

**Outreach Treatment:** To respond to these issues, and make behavioral health services more readily accessible to those most resistant to coming in for it, Dr. Gleghorn of the Behavioral Wellness Department put many new services in play to try to work with seriously mentally ill individuals, many of whom are also homeless. Assertive Community Treatment (ACT) teams, Assisted Outreach Treatment (AOT), and Homeless Outreach teams work with those experiencing mental health crises in the field. However, they cannot force treatment on those unwilling to accept it. Law enforcement will often also encounter these individuals, particularly if homeless, or made so by mental illness. The Co-Response Teams are an excellent response to this problem.

None of these problems are unique to Santa Barbara County. San Francisco conducted a study on conservatorships in 2019, and found they're not using conservatorships enough. Homelessness is the state's top issue at present, and it's well known that the percentage of mentally ill individuals experiencing homelessness is disproportionately high. Given the state's housing crisis, this is not surprising. Competition for housing is fierce, and as such, is highly stressful for people with decent jobs and credit. Many capable people and retirees are living with high housing uncertainty. There's zero ability for the severely mentally ill to compete for this same housing. If they're lucky, they might find a unit the county or city has built for this population, but that inventory is far below the need. Thus, it's not at all surprising we find them living in high numbers on the streets and in our parks.

In 2017, our Supervisors adopted "Laura's Law" or AOT: Assisted Outpatient Treatment on a 3-year pilot. The program was designed to address those persons who were high utilizers of the system and often suffered from anosognosia.

**The significant features of Laura's Law or AOT** are a 90-day attempt by specially trained outreach workers to make frequent contact with persons referred to the program because of their failure to accept treatment and frequent encounters with crisis worker, emergency rooms, and law enforcement. The program features gentle encounters over as many as 90 days to gain trust and to eventually help folks to believe and accept that treatment might make their lives better. Some of the outreach workers go into the County Jail to meet with their clients and coordinate with Public Defenders. Laura's Law (AOT) allows for taking persons who still refuse treatment after 90 days to Civil Court, where the "black robe" influence of a judge ordering the person into treatment could be effective: even the prospect of appearing before a judge has caused several folks to agree to treatment without the need to go to court. However, even with court-ordered treatment, the individual does not have to comply, particularly in taking medication.

With some of our county's stronger assertive treatment programs, like ACT and AOT, results have been somewhat mixed, with low performance and higher cost particularly in South County, and gaps in services experienced.

### **Public Housing and Mental Illness**

Individuals with mental illnesses or substance use disorders, particularly those recently housed from homelessness, tend to do poorly in public housing. This leads to evictions, returning them to homelessness. We confronted this problem in our commission meeting in October, and now are working to partner with both Housing Authorities in the county to

intervene with services and get someone stable and successful in housing. This should help the Housing Authority avoid using eviction as a first line of defense.

### **Behavioral Wellness Commission Next Steps**

Having studied this at length over 5 hearings in the commission over the 2019 year, the Behavioral Wellness Commission is taking the following actions:

1. **Set a target for Be Well interventions to retain housing for mentally ill and substance-addicted individuals.** The county already wants to reduce homelessness, and one way to do that is stop making people homeless, or returning them to homelessness, via evictions. Be Well can provide services that could intervene in problematic cases where mental illness or substance use is a factor, and ensure housing retention and housing success. The BOS should enthusiastically support this, and assist in resourcing it accordingly.
2. **Vault information sharing capabilities forward.** When we encounter mentally ill individuals from another jurisdiction, we often behave as though they were born at our border the day they arrived here. We have trouble getting access to data from other counties on what the person's treatment path might have been prior to arriving in Santa Barbara County. Enforcement can share data across jurisdictions. Behavioral Wellness systems should be able to as well. Moreover, other partners, such as criminal justice entities and health providers need to be able to tap into some of this same information. This will likely have to be accomplished via state legislation, so we have reached out to our state legislators for assistance, and our Assembly member has agreed to assist.

In closing, though a lot earnest and talented people want to help reduce mental illness in our county, and the societal disruptions and costs it creates, they lack measurable goals and a defined cooperative framework to do so. Some of this is being pioneered as we author this: the Sheriff's Stepping Up Initiative, the Co-Response unit, and multiple initiatives from Be Well to increase access to crisis services. But unless these are engineered to work **together** in a way that achieve performance objectives to reduce severe mental illness in our community, that further drives partnerships and process improvements to dramatically improve results, we will continue to spend a great deal of money.... with no guarantee of better results.