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San Rafael, CA 94903
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www.marincounty.org/bos

September 12, 2017

Honorable Kelly V. Simmons
Presiding Judge
Marin County Superior Court
3501 Civic Center Drive
San Rafael, CA 94903

Dear Judge Simmons:

The Marin County Board of Supervisors' response to the FY 2016-2017 Civil Grand Jury Report "Care of Mentally Ill Inmates in Marin County Jail" (June 8, 2017 report date) is attached.

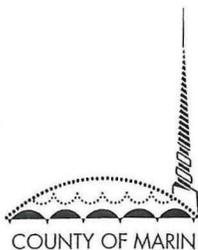
The attached document responds to all the requests made for responses from the Board of Supervisors.

Respectfully submitted,

Judy Arnold
President, Board of Supervisors

CC: Marin County Civil Grand Jury

John Doe



OFFICE OF THE
COUNTY ADMINISTRATOR



September 12, 2017

Matthew H. Hymel
COUNTY ADMINISTRATOR

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

Daniel Eilerman
ASSISTANT COUNTY
ADMINISTRATOR

SUBJECT: Response to 2016-2017 Grand Jury Report "Care of Mentally Ill Inmates in Marin County Jail" (June 8, 2017)

Angela Nicholson
ASSISTANT COUNTY
ADMINISTRATOR

Dear Board Members:

Marin County Civic Center
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RECOMMENDATION: Concur in and adopt the attached proposed response to the FY 2016-2017 Marin County Civil Grand Jury Report regarding the care of mentally ill inmates in the Marin County Jail, and authorize the Board President to forward the response to the Presiding Judge of the Marin County Superior Court.

SUMMARY: The 2016-2017 Civil Grand Jury Report published a report on June 8, 2017 entitled "Care of Mentally Ill Inmates in Marin County Jail." The report included a request for response from the Board of Supervisors to Recommendations R1-R13. This response includes review and input from the Departments of Health and Human Services, Probation and the Public Defender.

Attached for your consideration, in accordance with §933 of the California Penal Code, is a proposed response from your Board. A copy of the Grand Jury report is also attached for your information.

FISCAL IMPACT: None.

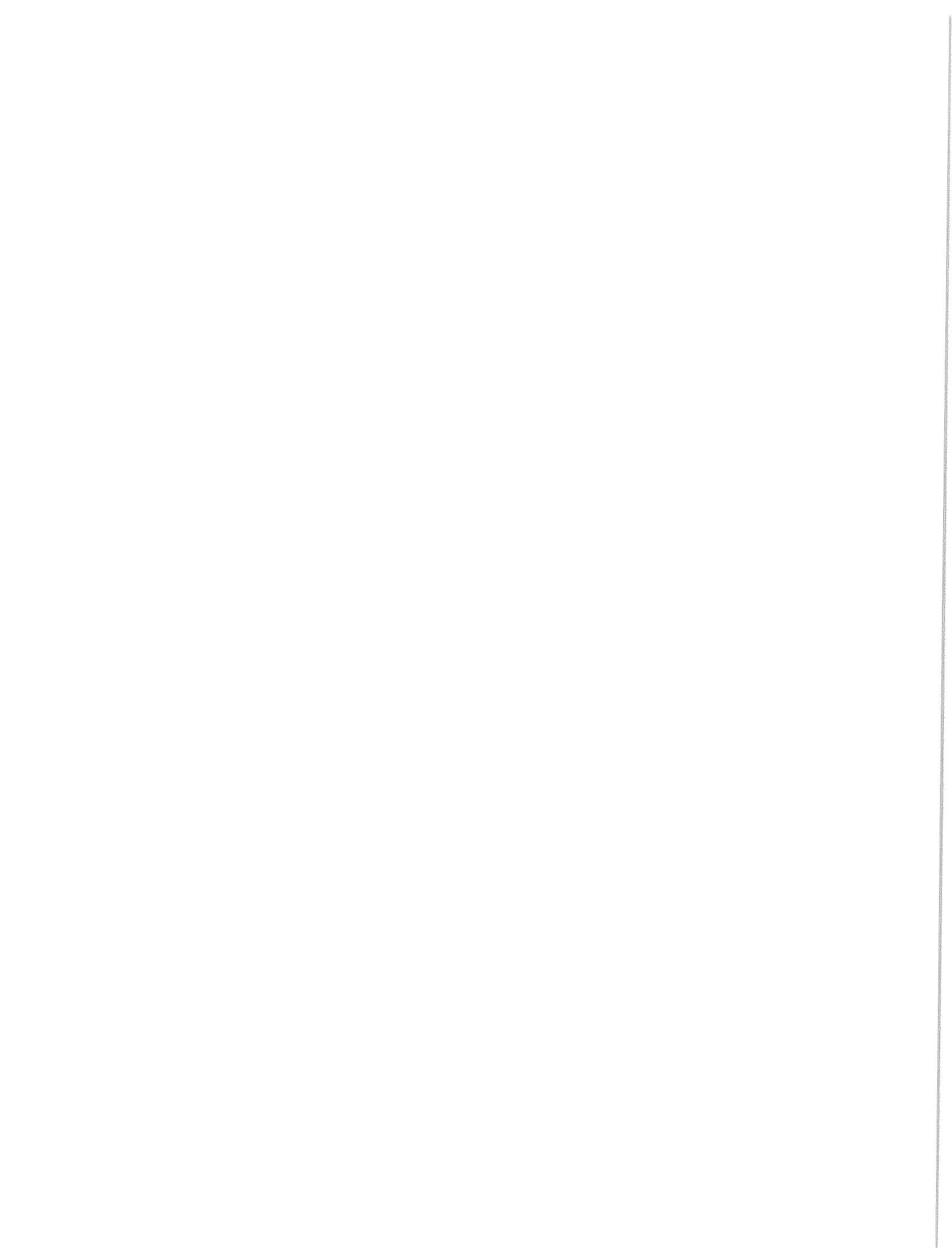
ALTERNATIVE: The Board may amend any suggested response.

Respectfully submitted,

Charlotte Jourdain
Administrative Analyst

Reviewed by,

Matthew H. Hymel
County Administrator





COUNTY OF MARIN RESPONSE TO GRAND JURY REPORT

REPORT TITLE: "Care of Mentally Ill Inmates in Marin County Jail"

REPORT DATE: June 8, 2017

RESPONSE BY: County of Marin Board of Supervisors

FINDINGS

- We agree with the findings numbered: **F1, F2 and F11.**
- We disagree wholly or partially with the findings numbered: **F3 – F10, and F12 - F14.**

RECOMMENDATIONS

- Recommendations numbered **R2** and **R9** been implemented.
- Recommendations numbered **R4** and **R6** have been partially implemented.
- Recommendations numbered **R1, R7, R8, R10, R12** and **R13** require further analysis.
- Recommendations numbered **R3, R5** and **R11** will not be implemented because they are not warranted or reasonable.

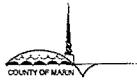
Date:

9/12/2017

Signed:

Judy Arnold
President, Board of Supervisors

2000-01-01



Response to Findings and Recommendations
"Care of Mentally Ill Inmates in Marin County Jail"
June 8, 2017

FINDINGS

F1. A significant number of inmates in the Marin County Jail have severe mental illness

Response: Agree. A significant number of inmates have some degree of mental illness, ranging from mild to moderate. Approximately 15% are diagnosed with serious to severe mental illness.

F2. The Jail's clinical and custodial staff are highly professional, dedicated, and competent.

Response: Agree.

F3. Due to deficiencies in policies, organization, management, and staffing levels, mental health care in Marin County Jail is inadequate.

Response: Disagree. Policies and procedures required by the Board of State and Community Corrections: Title 15 Minimum Standards for Local Detention facilities are in place. Staffing meets these required standards. Although the service level is adequate and consistent with state standards, we do agree that inmates with behavioral health diagnoses could benefit from an expansion of treatment services.

F4. No mental health staff are on site for large parts of every day.

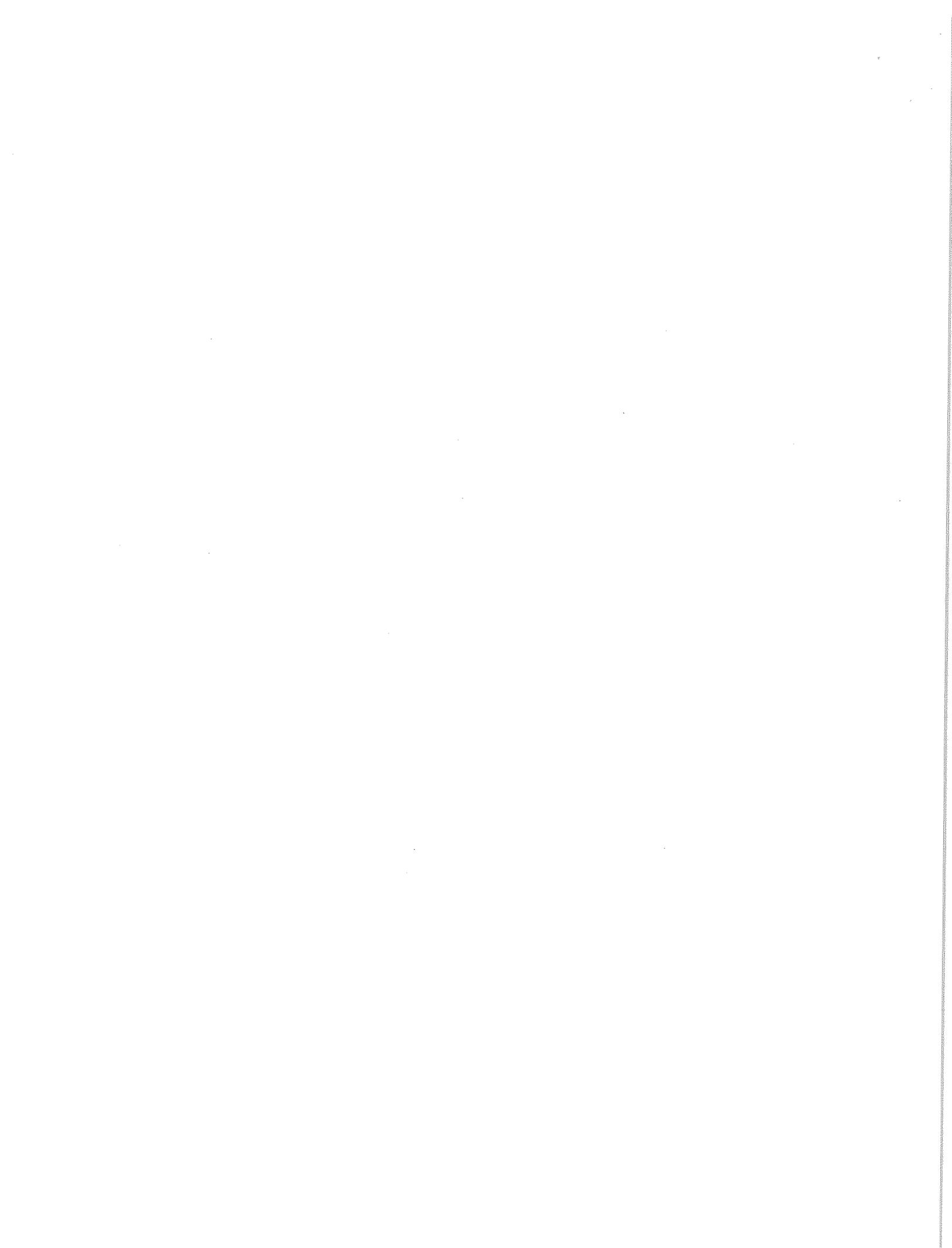
Response: Partially disagree. Mental Health staff provide coverage to the jail from 6am to 8pm Monday through Friday and 9am to 4pm on Saturday and Sunday. The Acting Mental Health Supervisor is on-call 24 hours per day, seven days per week to consult with custody staff regarding persons housed in Safety Cells and to assist with emergent mental health issues.

F5. The Jail experiences a high level of turnover in the mental health staff.

Response: Partially Disagree. There has been turnover in the Program Supervisor assigned to the jail, but there has not been significant turnover in other clinical staff.

F6. Inmates with severe mental health issues are placed in isolation, being allowed outside of their cells for only 30 minutes per day or a minimum of 3 hours per week.

Response: Disagree. According to the Sheriff's Office, Mental Health Inmates considered severe and low-functioning are outside of their cells for a minimum of 3.5 hours per week. Mental Health Inmates who are high-functioning are outside of their cells for approximately 15 hours per week. Due to multiple classifications and segregation in the Jail's Special Housing Unit, severe and low-functioning mental health inmates spend more time in their cells to protect them from being exposed to other mentally ill inmates that may present a danger to their safety.





Response to Findings and Recommendations
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F7. Mentally ill inmates are often placed in safety cells (commonly known as padded cells) for periods longer than 24 hours, a practice that has been described by the courts as cruel and unusual punishment.

Response: Disagree. For clarification, the courts have described the use of isolation as cruel and unusual punishment, but not the use of Safety Cells. Inmates with significant mental illness sometimes are placed in Safety Cells in order to ensure the safety of themselves and other inmates. The period in a Safety Cell can exceed 24 hours, with mental health consultation occurring every 12 hours of detainment.

According to the Sheriff's Office, at no time will a safety cell be used as a form of discipline or punishment. All inmates who are placed into the safety cell for mental health reasons are directly observed every fifteen minutes and regularly provided water and food by staff. Jail medical staff conduct an initial placement review and complete medical assessments throughout the entire placement. Jail Mental Health also completes a Mental Health assessment on placement or within 12 hours. Inmates are immediately removed from the safety cell once Mental Health staff and deputies determine that they are no longer a danger to themselves or others.

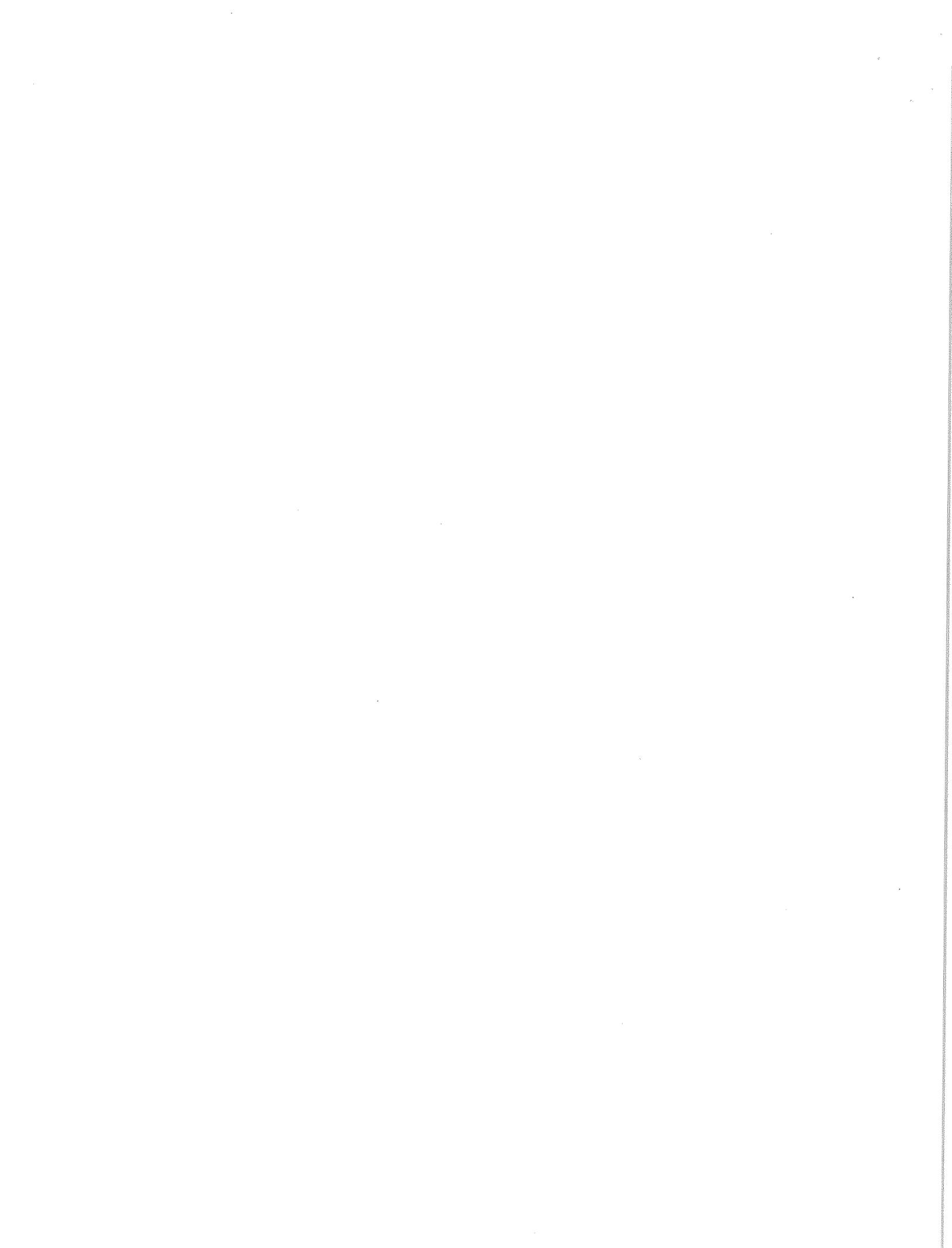
F8. The mental health status of inmates at the time of booking is often performed by deputies rather than mental health staff.

Response: Disagree. Determination of mental health status is determined by Registered Nurses part of the Jail Medical Services Program. According to the Sheriff's Office, as part of the pre-booking process, the arresting officer and the jail booking deputy ask an initial series of medical questions, which includes some questions pertaining to the mental health status of the arrestee/inmate. This is considered an initial medical screening and is not deemed a mental health assessment.

Prior to being housed in the Marin County Jail, all inmates complete a medical intake screening with a registered nurse. During that confidential medical intake screening process, more detailed questions are asked about the mental health status of the inmate. If medical staff and/or deputies determine at any time during the overall intake process that a specific mental health assessment made by a mental health professional is appropriate, the inmate will be referred to Jail Mental Health.

F9. In the case of emergency psychotic events, inmates who refuse medication are often placed in safety cells rather than being treated by involuntary administration of medication, which is allowed by California law and is the common community standard.

Response: Partially disagree. Neither the Marin County Sheriff's Office nor Health and Human Services staff involuntarily forces medication on mental health inmates housed at the Marin County Jail. If the Superior Court rules that an inmate be forced to take medication, they are transferred to an outside medical facility designed for this practice. No other jail in the Bay Area involuntarily forces medication on an inmate in custody, so we do not agree that this is the common community standard.





Response to Findings and Recommendations
"Care of Mentally Ill Inmates in Marin County Jail"
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For clarification, inmates in acute psychiatric distress are not placed in Safety Cells for refusal of medications but because of safety concerns.

F10. Since the termination of the County's contract with Santa Clara in 2015, the Jail and the Department of Health and Human Services have not yet established adequate processes to provide involuntary psychiatric medication in an emergency situation.

Response: Disagree. Health and Human Services (HHS) adheres to jail policies and procedures regarding the use of involuntary psychiatric medications in the jail. For clarification, involuntary medications historically were administered during treatment at the Santa Clara forensic mental health facility, but once returned to the Marin County Jail only voluntary medications were administered.

HHS, in conjunction with the Presiding Judge, District Attorney, Public Defender and Sheriff's Office, developed a protocol in Spring 2017 to evaluate inmates thought to be in need of acute psychiatric care and transfer them, when appropriate, to Marin's Crisis Stabilization Unit for further assessment, stabilization and potentially hospitalization. Efforts will continue to identify additional Forensic Mental Health facilities, but at this time none are available.

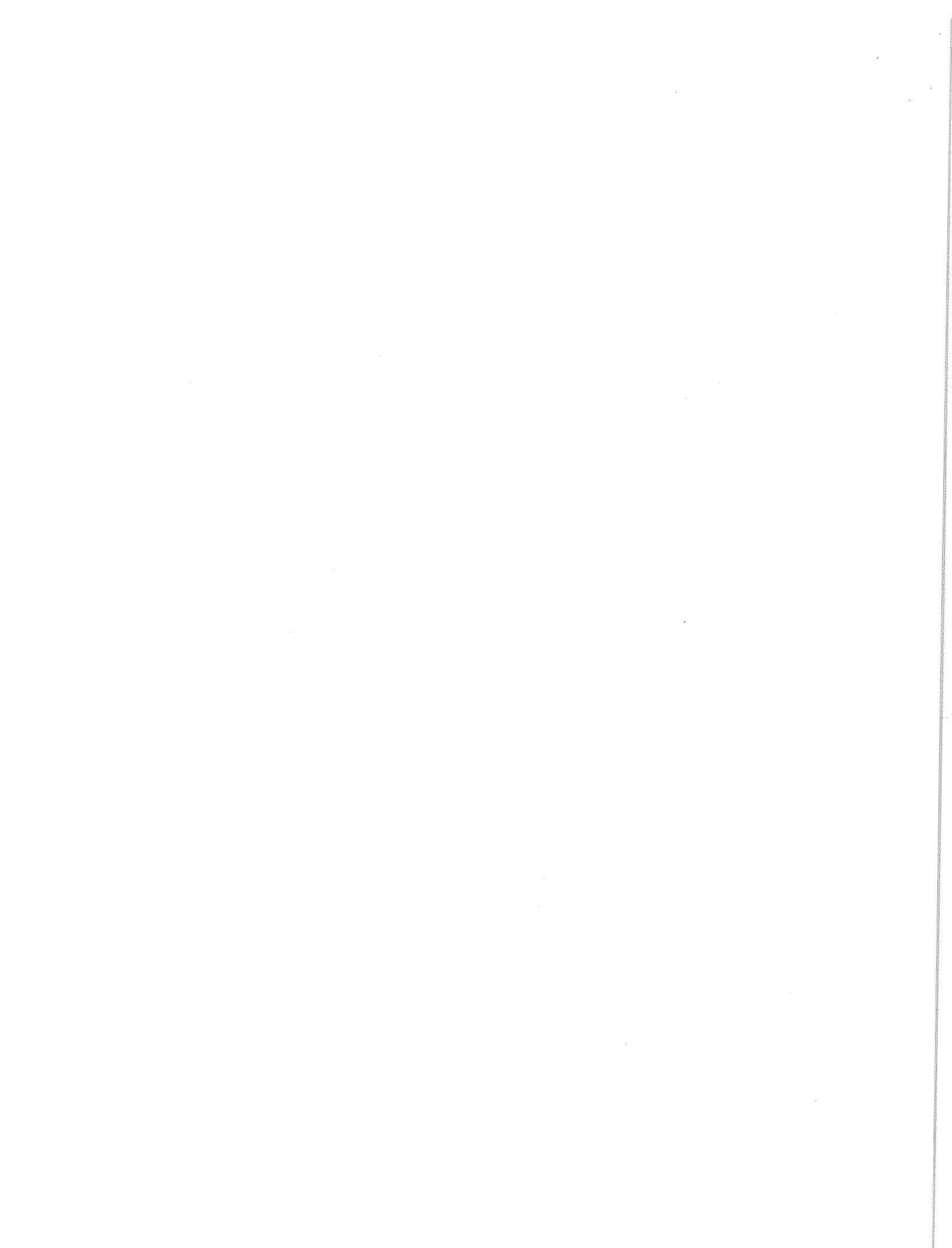
If an inmate is not appropriate for the above due to the nature and severity of legal charges and/or concerns about safety to the community, the inmate is evaluated for transfer to California Psychiatric Transitions (CPT), which has both a Forensic Mental Health Unit and a Restoration to Competency Unit. Involuntary medications may be prescribed at CPT based on recommendations from an evaluating psychiatrist and/or psychologist which are accepted by the Court.

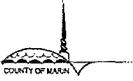
F11. Neither individual nor group psychotherapy is provided by professional mental health staff.

Response: Agree. These services are not required by the Board of State and Community Corrections: Title 15 Minimum Standards for Local Detention Facilities, which governs required services in a jail. Providing these services would require a significant increase in behavioral health staffing.

F12. The Jail's clinical quality assurance process does not adequately address mental health issues in the Jail.

Response: Disagree. To ensure that mental health issues are effectively addressed in the future, Health and Human Services has an established Quality Improvement Committee consisting of Behavioral Health and Recovery Services (BHRS) program and administrative staff and community based organizations. It is staffed and organized by the BHRS Quality Manager.





Response to Findings and Recommendations
"Care of Mentally Ill Inmates in Marin County Jail"
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F13. The County's use of state funds associated with AB 109 does not adequately address the increased mental health care burden on the Jail of longer term inmates that resulted from the enactment of AB 109.

Response: Disagree. For clarification, the number of inmates detained for longer periods in the Marin County Jail and eligible for AB 109 services is relatively small, with a reported average of 8-10 individuals at any given point in time. AB 109 funding is used for counseling services provided to these individuals by a licensed psychologist and discharge planning by a clinical care coordinator.

AB 109 currently provides approximately \$647,000 of funding designated to help staff a jail social worker, crisis specialist, two re-entry deputy positions, as well as a part-time jail mental health practitioner. These staff work collaboratively with numerous County and non-profit organizations to assist people currently housed in the Marin County Jail to achieve a healthy transition into the community and reduction in recidivism.

F14. Multiple documents in the Marin County Sheriff's Department Custody Division Policy and Procedures Manual have not been reviewed or updated for up to 12 years.

Response: Disagree. According to the Sheriff's Office, its Custody Division Policy and Procedures Manual is constantly being reviewed, updated and revised as necessary. Only policies that are found to be in need of revision receive a new date of issue, perhaps leading to the misconception that some policies have not been reviewed for a number of years.

In June of 2016, the Board of State and Community Corrections completed an in-depth analysis of the Sheriff's Policy and Procedures Manual, as they do on an annual basis. Refer to the Board of State and Community Corrections, which found that Marin's Policies and Procedures are in full compliance as outlined in Title 15 and Title 24 of California Code of Regulations.

RECOMMENDATIONS

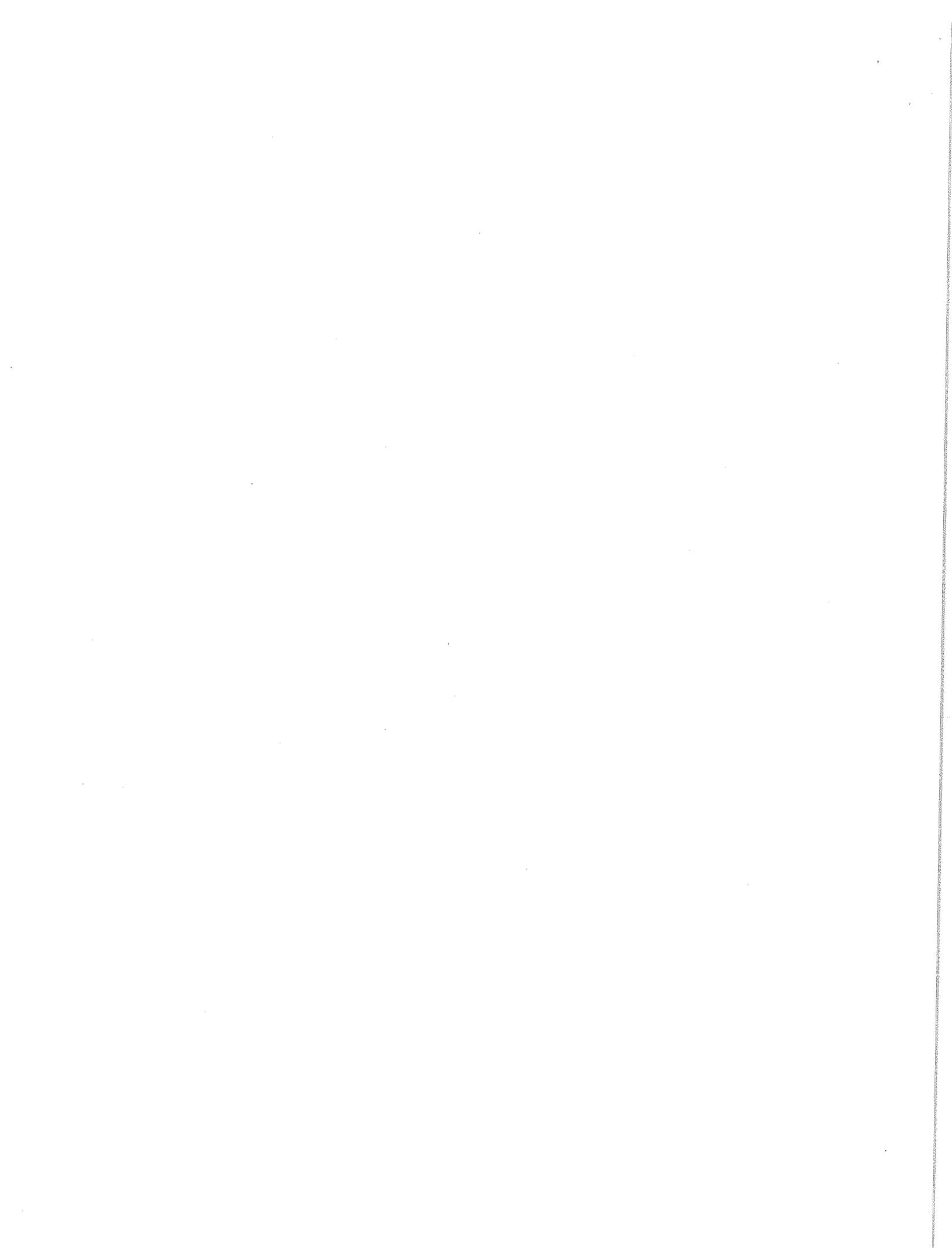
The Marin County Civil Grand Jury recommends the following:

R1. Mentally ill inmates should not be kept in a safety cell longer than 24 consecutive hours unless the jail psychiatrist certifies that no other remedy is available to prevent the inmate from harming themselves or others.

This recommendation requires further analysis. Utilization of Safety Cells is subject to the Sheriff's policies and procedures.

For clarification, Title 15 now requires a mental health clinician to provide consultation and recommendations to jail custody staff every 12 hours regarding persons housed in Safety Cells. There is not a regulatory requirement that this consultation be completed by a psychiatrist or that resulting recommendations be enacted.

R2. Safety cells should never be used for mentally ill inmates as a substitute for adequate medication and/or psychiatric treatment.





Response to Findings and Recommendations
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This recommendation has been implemented. Use of a Safety Cell may be needed to ensure the safety of the individual and/or other inmates and jail staff. The use of the Crisis Stabilization Unit, Marin General Hospital and California Psychiatric Transitions have provided additional options to address the need of urgent psychiatric conditions.

R3. Any inmate placed in a safety cell should be evaluated by mental health staff within one hour for the appropriateness of the placement and the evaluation of possible alternative placements.

This recommendation will not be implemented because it is not warranted or reasonable. Implementing this recommendation would not be the most cost-effective option to enhance mental health services in the jail. Currently, jail mental health staff assess inmates in Safety Cells during scheduled hours. After hours, the Jail Mental Health Supervisor is available by phone for consultation. Jail staff adhere to California Code of Regulations Title 15, which requires a mental health opinion/consultation on placement and retention within 12 hours of placement.

R4. The Jail should, within 6 months, establish or contract with a local facility where involuntary administration of psychiatric medication can take place.

This recommendation has been partially implemented. HHS maintains a contract with Marin General Hospital-Unit A for hospitalization of inmates who are appropriate for release from the jail on Conditional Release status approved by the Court, dismissal of legal charges, or other circumstances when detention status is not maintained.

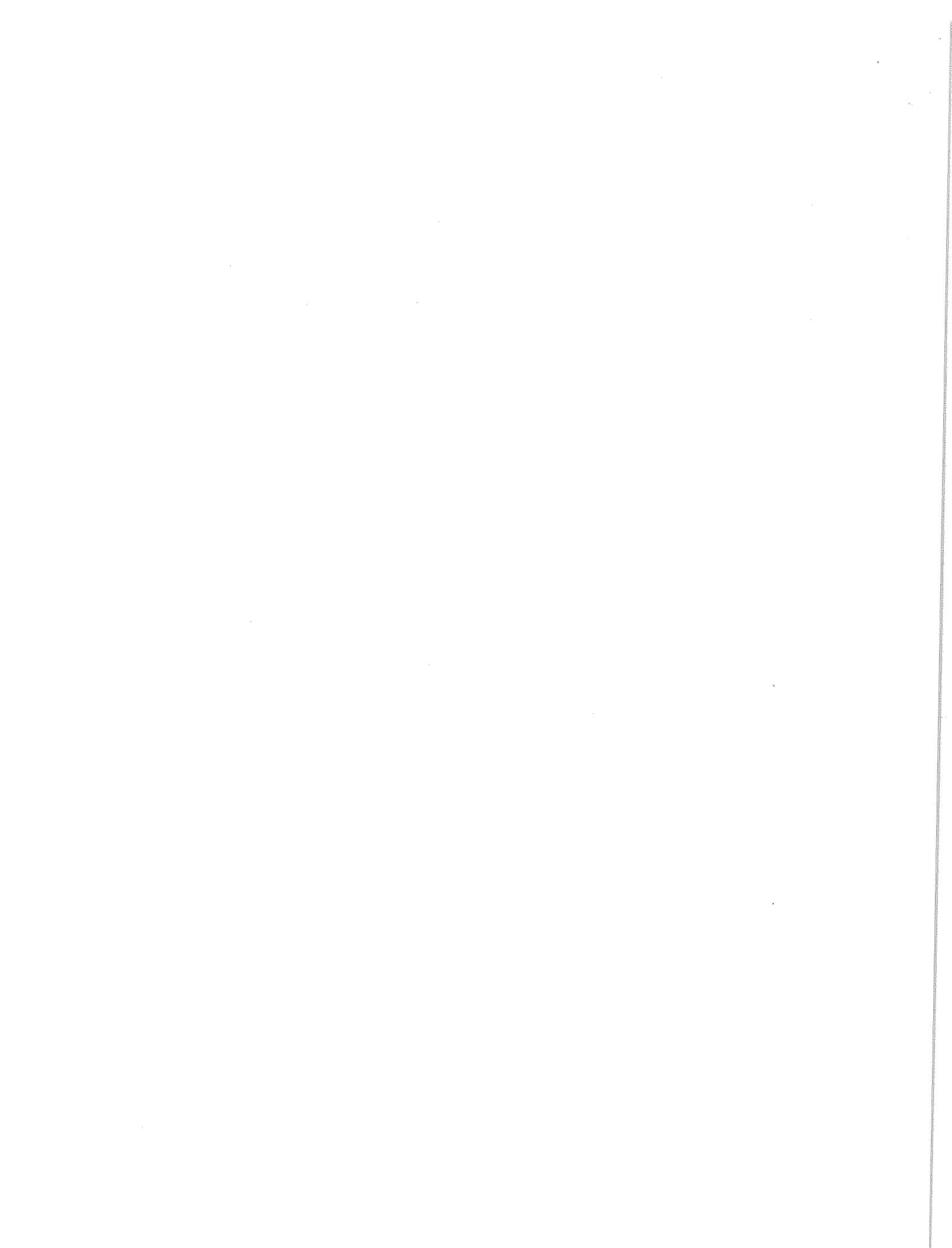
At this time, there is no local facility available to provide involuntary medications only. Involuntary medications may be provided at Marin's Crisis Stabilization Unit, Marin General Hospital or California Psychiatric Transitions as part of stabilization of an acute psychiatric condition.

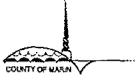
R5. The Jail should identify and adopt, within 6 months, policies that ensure mentally ill inmates are provided a minimum of one hour per day outside their cell, with a minimum of seven hours per week, while meeting adequate clinical and custodial standards of care.

This recommendation will not be implemented because it is not warranted or reasonable. Based on the physical layout of the Marin County Jail and the multiple classifications of inmates housed at the Jail, this recommendation is not feasible nor is it required by California Code of Regulations Title 15 Minimum Standards for local detention facilities.

R6. A psychiatrist should be available at the jail 8 hours per day, 5 days per week, and be available by telephone 24 hours per day, 7 days per week.

This recommendation has partially been implemented. Coverage has increased from 20 hours per week to 28 hours per week. Increase in psychiatric coverage from the current 28





Response to Findings and Recommendations
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hours/week to 40 hours a week requires further analysis. It is worth noting that telephonic consultation is available 24 hours/day, seven days/week.

R7. A Mental Health Crisis Specialist or a Psychiatric Nurse should be available at the jail 24 hours per day, 7 days per week.

This recommendation requires further analysis. We would need to compare this option among other enhancement options to determine if this is the most effective option. There would need to be a substantial increase in staffing in order to provide 24-hour coverage. An analysis of utilization patterns is necessary to determine if this level of staffing is warranted.

R8. The Jail should immediately institute programs to provide appropriate professional mental health (non-medication) therapy to all mentally ill inmates, particularly those incarcerated for longer than 7 days.

This recommendation requires further analysis and is under consideration. The Marin County Board of Supervisors recently moved to participate in the national Stepping Up Initiative. This has the goals of reducing incarceration of persons with behavioral health issues, reducing the length of incarceration of these individuals, assessing and providing appropriate behavioral health interventions during incarceration, and reducing recidivism.

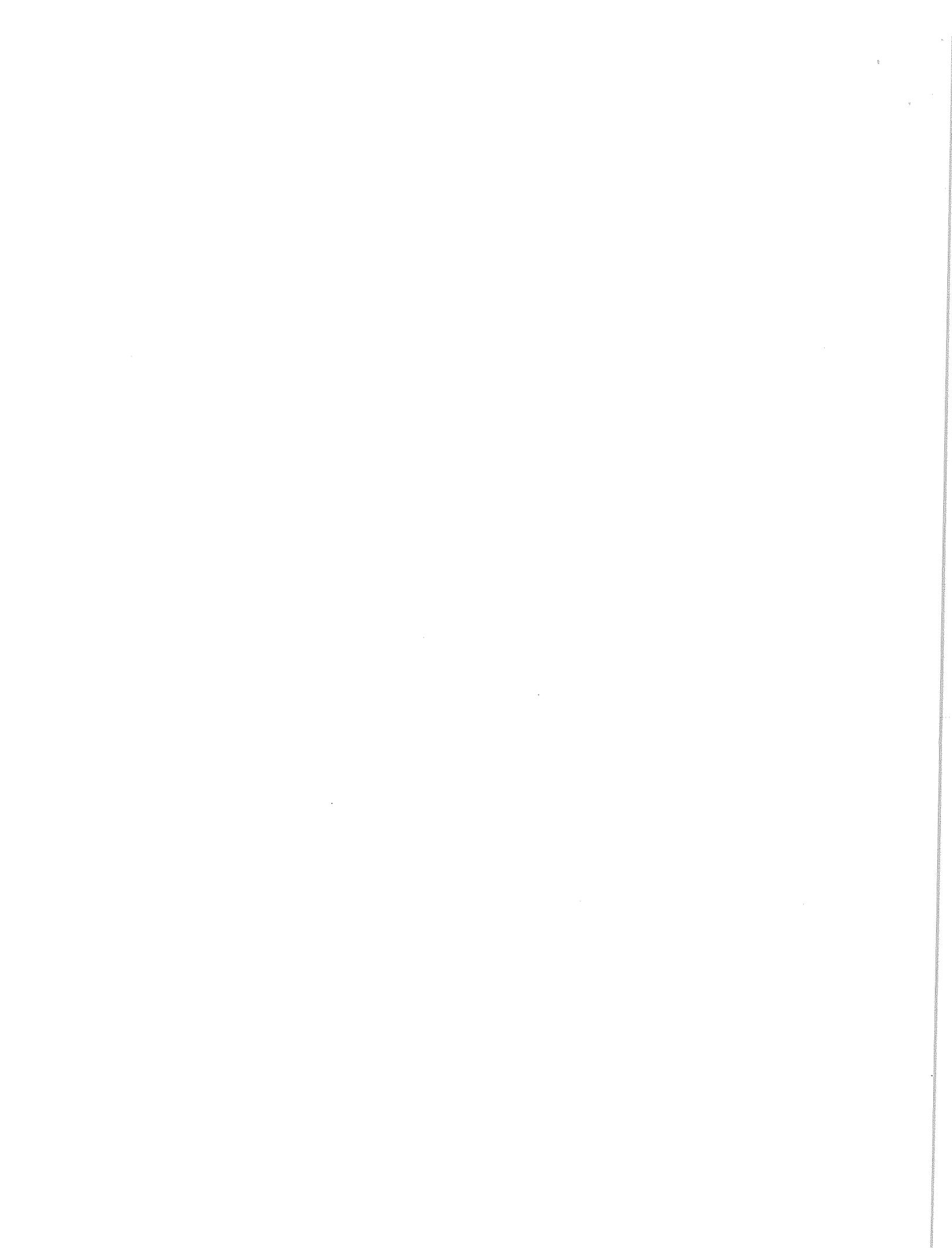
Health and Human Services has been working with the Board of Supervisors and County Administrator to consider policy options in a phased approach for expanded jail mental health services. The first of these, which currently is currently under consideration, is the establishment of a full time Jail Mental Health Supervisor position and the addition of 1.5 FTE mental health practitioners. We anticipate consideration of this option within approximately six months.

R9. Booking of inmates should at all times include screening for mental illness by a nurse using an accepted mental health screening tool.

This recommendation has been implemented. Jail Medical Nurses include a mental health screening in its integrated health screening tool which is completed at the time of booking. With implementation of the new electronic health record (Sapphire), this will be expanded and include entries by Jail Mental health staff.

R10. Classification of inmates as mentally ill should be reviewed by a member of the mental health staff within one hour of booking.

This recommendation requires further analysis. Among the enhancement options for expanded mental health services in the jail being considered is the addition of a mental health practitioner to be available at the time of booking to make recommendations about treatment and housing needs. However, it is not anticipated that this would be feasible 24 hours/day, seven days/week but would be available during hours of the highest need.





Response to Findings and Recommendations
"Care of Mentally Ill Inmates in Marin County Jail"
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R11. All policies and procedures in the Sheriff's Manual related to the care of inmates should be reviewed and updated within 6 months and following that, as necessary, at least biennially.

This recommendation will not be implemented because it is not warranted or reasonable. The Marin County Sheriff's Office Custody Division Policy and Procedure Manual is reviewed on a regular and on-going basis and that process is reviewed annually to ensure adequacy by the Board of State and Community Corrections.

R12. The Jail should develop, implement, and enforce a quality improvement procedure and establish a quality improvement plan for mental health services.

This recommendation requires further analysis. Health and Human Services will continue to work in partnership with the Marin County Sheriff's Office to develop, implement and enforce a quality improvement procedure for mental health services within the Marin County Jail. Health and Human Services has initiated a quality improvement plan specific to Behavioral Health and Recovery Services' provision of mental health services in the Jail.

R13. The County should provide adequate funding to implement these recommendations.

This recommendation requires further analysis. The County spends approximately \$1.3 million annually to provide adequate behavioral health consistent with state and federal health and safety standards. In addition, the County spends additional state realignment funds to provide transitional services to inmates, including those inmates with mental health needs. Over the next few months, we will be considering proposals to enhance mental health services and potential funding sources. As part of the Stepping Up initiative the Board of Supervisors has asked HHS to bring recommendations for expanding services. These proposals are being developed and will be brought to the Board for funding consideration.

