



DEPARTMENT OF
HEALTH AND HUMAN SERVICES

Promoting and protecting health, well-being, self-sufficiency, and safety of all in Marin County.



August 9, 2022

Benita McLarin, FACHE
DIRECTOR

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

20 North San Pedro Road
Suite 2002
San Rafael, CA 94903
415 473 6924 T
415 473 3344 TTY
www.marincounty.org/hhs

SUBJECT: Authorize the Health and Human Services Behavioral Health Director and Marin County Sheriff, pursuant to Penal Code section 1369.1, to designate the Marin County Jail as a facility authorized to provide medically approved and Court ordered medications to incarcerated persons who are found to be mentally incompetent to stand trial and unable to provide informed consent due to a mental disorder. (New)

Dear Supervisors:

RECOMMENDATION:

1. Authorize the President to approve the Resolution designating the Marin County Jail a facility authorized within the meaning of Penal Code section 1369.1 for the sole purpose of allowing inmates who have been found incompetent to stand trial and have a Court order for involuntary medications prompt access to medically approved psychiatric medications.

SUMMARY: California Senate Bill (SB) 568, enacted in October 2007, amended section 1369 of the California Penal Code and added section 1369.1 to enable Counties to designate County Jails as facilities authorized to administer antipsychotic medications to defendants that have been found mentally incompetent to stand trial and are unable to provide informed consent due to a mental disorder.

Currently, the Marin County Jail is not designated as such pursuant to Penal Code section 1369.1 and, therefore, may not provide Court-ordered involuntary medications and treatment to defendants who have been found mentally incompetent to stand trial and unable to provide informed consent with antipsychotic medication pursuant to a Court order while they are housed in the facility. Therefore, these individuals must wait months to be transferred to a State or private treatment facility for competency restoration treatment due to the high demand for beds. Some of these individuals decline Court ordered and medically approved psychiatric medications while in the Marin County Jail, leading to psychiatric destabilization, behavioral disturbance, and concerns about danger to self and others. Without treatment, these individuals may not progress towards trial competence while in the Jail, leading to extended lengths of incarceration.

Penal Code section 1369.1 provides that County Jails may be designated "treatment facilities" under the law for the sole purpose of administering antipsychotic medication pursuant to a Court Order and specifies that upon the

concurrence of the County Board of Supervisors, the County Mental Health Director (called Behavioral Health Director in Marin County), and the County Sheriff, a County Jail may be designated to compel incarcerated individuals who are found to be mentally incompetent to stand trial and unable to provide informed consent due to a mental disorder, to take court-ordered medically approved medication. This would in effect authorize the Marin County Jail to administer involuntary medications to individuals who need them without having to send them to often far-away State or private mental health hospitals to receive this treatment while awaiting trial in Marin.

Health and Human Services (HHS) and the Marin County Sheriff's Office (MCSO) have a current Memorandum of Understanding (MOU) to provide healthcare (both medical and mental health) in the Jail. With your Board's approval, HHS and MCSO will develop policies and procedures regarding involuntary medications in the Jail.

COMMUNITY BENEFIT: Incarcerated persons in the Marin County Jail are part of the Marin County community. At present, these individuals may decline prescribed psychiatric medications, even when ordered by a Court and when mentally incompetent to stand trial. Some individuals who decline prescribed medications experience acute and untreated psychosis, which may manifest by screaming, hoarding bodily fluids, smearing feces, engaging in self-injury, violence towards medical and custody staff, and other mental health symptoms. These individuals are suffering and are difficult to manage safely in a correctional environment. Further, many of these individuals have extended lengths of stay in the Jail as they await beds in a State Hospital for competency restoration treatment. This delay in treatment is in part why incarcerated persons with severe mental health disorders regularly remain incarcerated longer than their non-mentally ill counterparts. Were they to receive Court ordered involuntary medications while in the Jail, these individuals would experience a reduction in acute psychiatric symptoms and suffering, and may be restored to trial competency more quickly, thus facilitating their ability to move forward with their cases. Medical and custody staff in the Jail would face fewer safety and management challenges.

EQUITY IMPACT: This Resolution will be used as a framework to support involuntary psychiatric medications for individuals in the Marin County Jail who have a Court Order for such medications. Black, Indigenous, and People of Color (BIPOC) communities in Marin County are disproportionately impacted by incarceration, and this Resolution will facilitate new treatment options and decrease the length of stay of pretrial detention for those individuals who are incompetent to stand trial.

FISCAL IMPACT: There will be no increase in General Fund Net County costs as a result of this action. Costs for psychiatric medications for incarcerated individuals are included in existing budgets, including medications for those who have been adjudicated incompetent to stand trial due to a mental disorder. It is anticipated that the fiscal impact of this Resolution would be cost neutral and may provide savings over time.

REVIEWED BY:	County Administrator	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
	Department of Finance	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
	Human Resources	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
	County Counsel	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>

Respectfully submitted,

Benita McLarin
Director