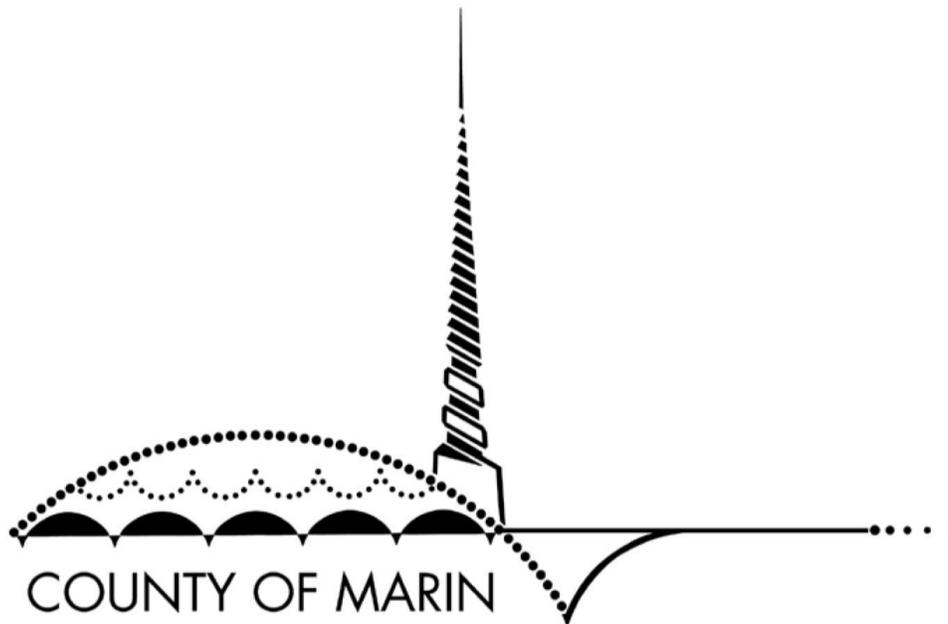


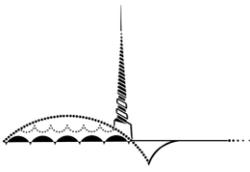
2016–2017 MARIN COUNTY CIVIL GRAND JURY

Care of Mentally Ill Inmates in Marin County Jail

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Care of Mentally Ill Inmates in Marin County Jail

SUMMARY

Today in the United States there are nearly 10 times as many mentally ill persons in prisons and jails as there are in mental hospitals. A particularly severe burden has been placed on California's county jails by the closing of most of the state's mental hospitals and changes in California laws that have resulted in an increased number of felons being sentenced to jails rather than prisons.

In 2010 and 2012 the Marin County Jail and Department of Health and Human Services commissioned reviews of the care received by the mentally ill in the Jail. These reviews suggested that numerous changes be made in the Jail to raise the level of care of mentally ill inmates to meet community standards. The Grand Jury's investigation found that the Jail and the Department of Health and Human Services have only recently begun to implement some of the changes recommended in these reports. These changes, however, have not yet resulted in adequate improvement of conditions. Furthermore, some practices in the Jail, particularly the isolation of mentally ill inmates and the placement of inmates in safety cells for extended periods of time, might be judged to be cruel and unusual punishment, potentially violating the constitutional rights of these individuals.

Certain steps being taken constitute some progress, including increases in staffing and a recent resolution of the Marin County Board of Supervisors to join a program entitled the "Stepping Up Initiative," a national initiative to reduce the number of people with mental illness in jails.

This report describes the Grand Jury's investigation of the treatment of mentally ill inmates in the Jail. A significant improvement in mental health care within the Jail must be a high priority for the County. Current staffing, provision, and organization of mental health care in the Jail are inadequate and mental health care does not conform to community care standards.

The County must find resources to provide mental health care to inmates in Marin County Jail that meets the requirements of both the law and accepted clinical practices.

BACKGROUND

Why this investigation was conducted

The institutional care of persons with mental illness has changed dramatically over the past 50 years. Today, California has more severely mentally ill persons incarcerated in correctional facilities than in mental hospitals. This has put a significant burden on the criminal justice system, particularly on county jails, which were not designed to care for persons with mental illness.

The 2013–2014 Marin County Civil Grand Jury addressed several aspects of this issue in their report, “Jail Checkup: What’s the Price of a Clean Bill of Health.” The report criticized the methods used by the Marin County Jail to provide emergency involuntary medication. Three years later, this specific issue has still not been resolved.

Scope of Investigation

This investigation was limited to the care of mentally ill persons while incarcerated in the jail. Other related and important issues, such as the continuity of care for mentally ill inmates after their release into the community, were beyond the scope of this investigation.

Focus of Findings

This report identifies policy, organizational, management, and staffing issues in the Jail that need to be addressed in order to provide appropriate care for mentally ill inmates. The Grand Jury was very favorably impressed by the professionalism, dedication, and competence of the Jail’s clinical and custodial staff. The professional mental health staff in the Jail (psychiatrist, nurses, crisis specialists) provide high quality care, but the overall mental health care of inmates is hindered by the issues described in this report.

METHODS

The Grand Jury examined numerous documents, including:

- Historical documents and descriptions of the care of persons with severe mental illness, particularly those in institutional care
- Documents from the scientific and clinical literature identifying best practices in the care of persons with severe mental illness, including both community practice and care for incarcerated persons
- Laws concerning general and specific requirements for the treatment of mentally ill incarcerated persons
- Laws concerning involuntary administration of psychiatric medications to persons in jails

- Court records and documents describing and analyzing judicial rulings regarding the medical and mental health care of incarcerated persons
- Reports commissioned by the Jail and the Department of Health and Human Services about care of inmates with mental illness in the Marin County Jail.
- Marin County Jail policies and procedures
- Policies and procedures of other California jails

The Civil Grand Jury conducted interviews that included:

- Clinicians and administrative employees of the Marin County Department of Health and Human Services
- Marin County Jail employees
- Marin County Probation Department employees
- Marin County Public Defender employees
- Experts in the care of persons with mental illness
- An expert in jail and prison law
- A community mental health advocate

The Grand Jury thanks the County staff and the experts and others who met with us, responded to our requests for information, and provided important information and candid insights that form the basis of much of this report.

INVESTIGATION RESULTS

Institutionalization of the Mentally Ill: Transition from Hospitals to Correctional Facilities

Today in the United States there are nearly 10 times as many mentally ill persons in prisons and jails than there are in mental hospitals.¹ Both nationally and in California, prisons and jails have become the de facto institutional home for persons with severe mental illness, particularly as mental health-related hospital beds have decreased over time. Marin County Jail, and jails in other California counties, are struggling with the effects and outcomes of the closing of most of California's state mental hospitals.

The shutdown of many of California's mental institutions began in the late 1950s, when there were 14 such hospitals. Today there are five state hospitals with a population that is only about 10 percent of what it was 60 years ago. There were a number of reasons for the closing of

¹ [Torrey EF, Zdanowicz MT: The Treatment of Persons with Mental Illness in Prisons and Jails: A State Survey. Treatment Advocacy Center, April 8, 2014](#)

California's mental hospitals, including the financial burden of maintaining these facilities. In addition, advances in treatment, especially the introduction and use of new and revolutionary antipsychotic medications in the 1950s,² suggested that many persons with severe mental illness might be able to function adequately outside of mental hospitals. Advocates for the mentally ill argued that it was more humane to care for those with mental illness in the community. Mental health clinics were developed in many communities with financial help provided by the State's implementation of the Short-Doyle Act in 1957.

The shift from mental hospital to community care was given additional impetus by the enactment of the Lanterman-Petris-Short Act (LPS) in 1968, which ended involuntary hospitalization for those with mental illness, developmental disabilities, and chronic alcoholism without a full and timely clinical evaluation and judicial hearing.³ LPS changed the state's mental-commitment laws to limit involuntary detention of all but the most gravely mentally ill and provided a "patient's bill of rights" regarding treatment.⁴

The intent of the LPS Act was to end inappropriate lifetime commitment of people with mental illness and firmly establish the right to due process in the commitment process while significantly reducing state institutional expense.⁵

The hoped-for adequate care of mentally ill persons in the community, as envisioned in the Short-Doyle and LPS acts, never fully materialized. In retrospect, while there were many humane reasons for discharging patients from the state's mental hospitals to community care, the closing of state hospitals also contributed to a large increase in homelessness and other negative social consequences.

The closing of the hospitals and inadequate community care resources left many mentally ill persons without proper psychiatric care. The mentally ill often lapsed into psychosis, some committing misdemeanor or felony offenses resulting in their arrest. Some mentally ill are taken to jail because their erratic behavior is considered annoying to the public, not because they are a threat to public safety. Others end up in jail when their families cannot find help and call law enforcement. Still others are taken to jail because treatment centers cannot care for them due to violent or uncontrollable behavior.

Constitutional Rights of Mentally Ill Inmates

The rights of mentally ill inmates in the County Jail are set out in a number of statutes, but flow initially from the Eighth Amendment to the U.S. Constitution which reads, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." The

² Shen WW: A history of antipsychotic drug development. *Compr Psychiatry*. 1999;40:407-14.

³ [California Welfare and Institutions Code, §§ 5000-5120](#)

⁴ Jaffe, SB. "Good Aims, Poor Results." *Los Angeles Times*. 22 Mar. 1987.

⁵ "[The Lanterman-Petris-Short Act](#)." *California Hospital Association*.

prohibition against cruel and unusual punishment has been explicated in extensive legal action; a detailed description of the jurisprudence relating to this issue as regards mentally ill inmates is beyond the scope of this report. In California, important rulings relating to the rights of mentally ill inmates have been decided in a series of court cases originally filed in 1990 and now called *Coleman v. Brown*. In these cases, various courts have ruled that California's treatment of the mentally ill violated the Eighth Amendment rights of mentally ill inmates and prisoners in regard to overcrowding, use of force, disciplinary measures and segregation. Most significantly, courts have ruled that segregation of the mentally ill is harmful.

A problem exists regarding segregation of the mentally ill, which has been determined to be cruel and unusual punishment in the *Coleman* case mentioned above. We note in particular that several experts in this field told us that mental illness can only be exacerbated by isolation, and that segregation of inmates is a gamble on the part of a jail. Segregation is described in greater detail below.

Recent Policy Changes Affecting California's Mentally Ill Population

Major changes in California state laws, codes and policies regarding care of persons with serious mental illness have occurred in the past 30 years. These changes have placed more responsibility on California's counties for the care of these persons, have increased the burden of this care on county jails, and have defined more precisely the ability of jails to provide emergency involuntary medications. Serious mental disorder (see Glossary for full definition) may cause behavioral functioning that interferes with the primary activities of daily living.

1991 Mental Health "Realignment." In 1991, in response to state fiscal issues, California transferred financial and administrative responsibility to the counties for care of persons with mental illness.^{6,7} The legislation, which changed the California Welfare and Institutions Code (WIC), requires counties to provide a minimum set of services to mentally ill children and adults, as defined in WIC section 5600.2.⁸

⁶ [Legislative Analyst's Office State Spending Plan for 1992-93](#)

⁷ ["A Complex Case: Public Mental Health Delivery and Financing in California"](#). July 2013

⁸ [California Welfare and Institutions Code Section 5600.2](#)

Table 1 lists the services that counties are required to provide under WIC section 5600.6. Note that prisoners and inmates are members of the community in which they are being held. Therefore, their care must meet the standards of that community.

2011 State Prison Population “Realignment.” Between 1980 and 2010, California’s prison population increased 572 percent.⁹ In 2011, the U.S. Supreme Court in *Brown v.*

Plata affirmed a lower court’s decree to reduce the prison population to 137% of capacity, or by approximately 33,000 inmates at the time.

The state responded with the passage of AB 109 (“Realignment”), which changed the way felons convicted of non-serious, non-violent, non-sexual crimes were sentenced, moving the incarceration of newly convicted felons of these crimes from state prison to county jails. In addition, inmates released on probation from prison to a particular county will often serve time in that county’s jail for violating the terms of probation. These inmates tend to be sentenced to longer terms in county jail than non-felony inmates, thus increasing the number of incarcerated seriously mentally ill persons. It is estimated that between 10 and 15 percent of jail inmates are severely mentally ill¹⁰ and over half may have some type of mental illness.¹¹ Another major result of prison overcrowding, as found by the District Court, was that prisoners with serious mental illness did not receive minimal, adequate care.¹²

Emergency Involuntary Treatment of Severely Mentally Ill Inmates. In 2012 the legislature passed and the Governor signed AB 1907, which specified the conditions that needed to be met to administer psychiatric medications on an emergency basis to the mentally ill in prisons and jails in the state, as enacted in Penal Code Section 2602–2603.¹³ (See Glossary for full definition.)

Table 1
California Welfare and Institutions Code, Section 5600.6
The minimum array of services for adults meeting the target population criteria established in subdivision (b) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:
(a) Precrisis and crisis services.
(b) Assessment.
(c) Medication education and management.
(d) Case management.
(e) Twenty-four-hour treatment services.
(f) Rehabilitation and support services.
(g) Vocational services.
(h) Residential services.

⁹ [California in Context: How Does California’s Criminal Justice System Compare to Other States?](#)

¹⁰ Torrey, EF, et al. “More Mentally Ill Persons Are in Jails and Prisons Than Hospitals.” *Treatment Advocacy Center*. May 2010

¹¹ “[Special Report: Mental Health Problems of Prison and Jail inmates. US Department of Justice, Bureau of Justice Statistics](#)”

¹² [Supreme Court of the United States; Brown, Governor of California et al. v. Plata et al.](#) 23 May 2011.

¹³ [AB-1907 Inmates: psychiatric medication.\(2011-2012\)](#)

AB 1907 authorizes the Department of Corrections and Rehabilitation and county jails to initiate involuntary medication on an emergency basis if it is determined that an inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medication, or is a danger to self or others.

Reports Concerning Care of Mental Illness in Marin County Jail

Between 2010 and 2015 county officials commissioned reports prepared by independent experts to review policies and procedures related to health and mental health care in Marin County Jail.

JFA Institute Report.¹⁴ In 2010 the Jail asked the JFA Institute in Washington, DC to conduct a study titled “Marin County, California Jail Population Projections and Assessment of the Mental Health Care System.” The study had two specific goals. The first goal was to establish population projections that reflected current trends. These findings could not have anticipated the impact of AB 109 and the resulting increase in the jail population.

The second goal was to assess the Jail's then-existing mental health screening and treatment. The authors noted a number of deficiencies in the existing system and that the mental health system did not meet “best practices.” The report highlighted problems in risk assessment, inadequate mental health staff, lack of formal treatment planning, and long delays in addressing the mental health needs of inmates. The major findings of this study are shown in Table 2.

¹⁴ [Marin County, California Jail Population Projections and Assessment of the Mental Health Care System'. JFA Institute, 2010](#)

Table 2

***“Marin County, California Jail Population Projections
and Assessment of the Mental Health Care System”***

JFA Institute, 2010

Report Findings

- Although the jail continues to meet the minimum requirements promulgated by the California Correctional Standards Authority, there are a number of areas that should be improved upon.
- A standardized risk assessment instrument in determining which inmates should be referred for mental health assessment by the custody staff is needed.
- Mental health staff approaches the issue of mental health assessments in an idiosyncratic manner. Consequently, a standardized system for such assessments is needed.
- There is a lack of formal treatment planning.
- There are no ongoing therapeutic services to the mentally ill inmates except for medication(s).
- There is no formal discharge planning is a serious omission that directly contributes to increased recidivism rates for mentally ill inmates. Even in a system with rapid turnover of inmates, some type of formal mental health follow-up in the community for seriously mentally ill inmates is a basic requirement of good mental health care.
- The overwhelming majority of the patients that are on the mental health caseload are being released from the jail without being “cleared” by staff.
- There is insufficient staff to perform the basic requirements of a competent in-custody mental health system. Also, there is no provision for “staff backup” when the staff is away from work for any reason. Based on this review of the current system, staffing pattern could easily be doubled.
- The jail should have a 1.0 FTE psychiatrist, the crisis specialist staff should be increased to provide 12 hours per day, 7 days per week; a FT mental health nurse; and a clerical person dedicated to support the mental health staff.
- There also need to be an effort to recruit culturally competent Spanish-speaking staff due to the large number of monolingual, Spanish-speaking inmates.
- Inmates requiring involuntary psychotropic medication, are now being transferred to the Santa Clara County Jail located in San Jose. This is a very expensive policy (over \$466,000 per year) which needs to be re-evaluated and probably terminated.

Kathleen Page Report. In 2012, after implementation of AB 109, the Marin County Department of Health and Human Services commissioned a study by Kathleen E. Page, a Correctional Health Consultant, to identify which parts of the Jail’s mental health program were efficient and cost-effective, and which areas could be improved. The report from this study is titled “Marin County Detention Mental Health Services.” In it, many of the shortcomings addressed in the 2010 JFA report were once again found to be problematic, notably inadequate mental health screening and insufficient staffing levels. The major findings of this study are shown in Table 3.

<p style="text-align: center;">Table 3</p> <p style="text-align: center;">“Marin County Detention Mental Health Services” Kathleen Page, Correctional Health Consultant, 2012 Findings and Recommendations</p> <p>Findings</p> <ul style="list-style-type: none">■ Mental health, drug, and alcohol services need to be expanded■ The mentally ill face higher parole revocation rates; this will increase the number of inmates with mental health issues in the jail system■ It will be important to continue monitoring the number of AB 109 inmates and assess impact... Most of these inmates have a greater need for mental health and drug and alcohol services.■ Mental Health staffing levels are inadequate and need to be increased.■ Lack of evening staff causes insufficient back-up.■ There is a need for targeted preventative mental health intervention for patients who are likely to go into crisis. <p>Recommendations</p> <ul style="list-style-type: none">■ Increase mental health staffing ... Increase 1.0 FTE crisis specialist to cover week-ends and to provide coverage during the evening hours.■ Utilize telemedicine for evaluations ... and/or hire a Psychiatric Mental Health Nurse Practitioner (PMHNP).■ All inmates need an initial mental health screening ... This process is essential... This will involve developing improved screening question content ...■ Work actively with a local university to establish the jail as a clinical assignment site for advanced psychology students.

JFA called for a full-time psychiatrist position and crisis specialist staffing 12 hours a day, 7 days a week. Page called for an increase of one full time employee in crisis specialist staffing for weekends and evenings. To date, these objectives have not been met.

Current psychiatric staffing in the Jail is available 28 hours per week, combining a part-time contracted on-site psychiatrist (20 hours per week) and eight hours of outside assistance from two UCSF Forensic Fellows (four hours each for one year).

Crisis specialist staffing has increased, but weekend coverage only extends to 2:00 PM (Sunday) and 3:00 PM (Saturday). Weekday evening staffing ends at 8:00 PM. To accomplish these additional hours for coverage, three part-time crisis specialists were hired.

In summary, both reports stressed the importance of proper mental health screening, which the 2010 JFA report described as being approached in an “idiosyncratic manner.” Screening is still not consistently done by mental health staff. No standardized assessment tool is used; thus, each mental health employee assesses an inmate’s mental health status based on their own experience and training.

Current Staffing in Marin County Jail

In 2010, the JFA Institute report on the Marin County Jail said, “There is insufficient staff to perform the basic requirements of a competent in-custody mental health system.” As can be seen in Table 4, mental health staffing has expanded since that time, supported in part by funding provided by the State as a result of the AB 109 realignment. A total of 2.05 total Full Time Equivalent (FTE) employees in 2010 has now expanded to 4.35 total FTE employees. In addition, 1.4 FTE Crisis Specialists have become a total of 3.4 FTE; however, one FTE Crisis Specialist does not have clinical mental health responsibilities in the Jail. The Psychiatrist position has expanded from 0.4 to 0.7 FTE. It is worth noting that this includes two University of California, San Francisco psychiatry fellows working together one day per week. With this increase in staffing, some of the issues described in the 2010 report have been addressed.

Even with the improved current staffing situation, mental health care is still problematic. Following initial classification of a mentally ill inmate (which may be done by a member of the custody staff, a nurse, or a crisis specialist) an inmate recognized as mentally ill and/or on psychiatric medication is referred to the psychiatrist. The only treatment available to the psychiatrist is administration of medication, and if the inmate refuses medication there is no current protocol for involuntary administration. An inmate who refuses medication and is considered in psychiatric crisis is placed in a safety cell or in isolation until such time as the crisis passes.

One consequence of inadequate staffing is that it is possible for an inmate to be booked into the jail but not seen by mental health staff for as long as 16 hours. For example, during a Grand Jury visit to the Marin County Jail, an inmate was confined to a safety cell in the booking area. This individual was considered to be suicidal at the time of booking and subsequently placed in a safety cell at 8:00 PM on a Sunday evening. There was no mental health staff available to

evaluate the inmate until 9:00 AM the next day. Clearance by mental health staff is required prior to releasing an inmate from a safety cell. The evaluation by mental health staff in this case began after the individual had already been confined to a safety cell for 13 hours.

Table 4								
Jail Services, Budgeted Full-Time Equivalent Employees, 2010 – 2017								
Staff Responsibilities	Fiscal Year							
	2010	2011	2012	2013	2014	2015	2016	2017
Health								
Administration	2.00	2.00	2.00	2.00	2.00	1.00	1.00	1.00
Physical Health								
Physician (Contract)	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Detention Nurse Practitioner	1.40	1.40	1.40	1.40	1.40	2.40	2.40	1.40
Detention Nurse Supervisor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Nursing (RN)	13.35	13.35	14.05	11.75	10.35	10.15	9.75	9.75
Nursing (LVN/Other)					1.00	2.50	2.30	2.30
Nursing Services Manager	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Mental Health								
Psychiatrist (County Employee)	0.40	0.40	0.40					
Psychiatrist (Contract)				0.53	0.53	0.53	0.70	0.70
Mental Health Unit Supervisor	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25
Crisis Specialist	1.40	1.40	1.40	1.40	1.40	1.40	1.40	1.40
Licensed Mental Health Practitioner (AB 109 funded)		1.00	1.00	1.00	1.00	1.00	1.00	1.00
Licensed Crisis Specialist (AB 109 funded)							1.00	1.00
Probation								
Administration	18.00	17.00	18.00	18.00	18.00	18.00	18.00	19.00
Adult Services	NA	39.00	38.00	40.00	43.66	43.66	47.66	47.66
Custodial	108.80	106.80	105.80	104.80	103.80	NA	102.80	103.80

Source: Marin County Department of Health and Human Services, Probation Department, and Sheriff's Office
 NA: Not available

Beyond the issue of hours of coverage by mental health staff, staffing deficiencies result in an inability to address critical issues. Among these are the fact that intake evaluations are not done by mental health professionals, and there are no therapeutic services available to the mentally ill

beyond medication. Our investigation also found that inadequate staffing and a high turnover of mental health supervision is taking a toll on the morale of the mental health staff.

Burden of Mental Illness in Marin County Jail

An assessment of the number of inmates with severe mental illness in the Marin County Jail is important to an understanding of the clinical burden of mental illness in the Jail. Because the Grand Jury did not have the clinical expertise or capability to address this issue directly, an indirect indicator was used: the type of medications being prescribed for inmates in the Jail, which is a relatively good proxy for the categories and types of illness being treated.

The Grand Jury asked the Marin County Department of Health and Human Services, which delivers clinical care in the Jail, to provide us with the number of inmates who received one of the major types of psychotropic medications (as defined in the Marin County Jail Drug Formulary) during February and August 2016 (to account for seasonal or other changes).

This information, shown in Table 5, implies a significant mental health burden in the Jail. During the two months studied, approximately 20 percent of inmates received one or more psychotropic medications. About seven percent were receiving anti-depressant agents. In February 2016 there were 32 inmates, over 10 percent of the jail population, who received anti-psychotic agents, which are generally prescribed for only very severe mental illness.

Table 5		
Number of Inmates Receiving Psychotropic Medications		
Marin County Jail, February and August, 2016*		
Psychotropic Medication Type**	February	August
Anti-Anxiety Agents Diazepam (Valium)	4	4
Anti-Depressant Agents Amitriptyline (Elavil), Citalopram (Celexa), Fluoxetine (Prozac), Paroxetine (Paxil), Sertraline (Zoloft), Venlafaxine	21	24
Anti-Manic Agents Divalproex DR (Depakote), Lithium Carb - (Eskalith or Lithotabs), Valproic Acid (Depakene)	10	11
Anti-Psychotic Agents Haloperidol (Haldol), Perphenazine (Trilafon), Prochlorperazine (Compazine), Risperidone (Risperdal), Ziprasidone (Geodon)	32	16
Miscellaneous Anti-Cholinergics Benztropine (Cogentin)	2	7
ANY Psychotropic Medication***	68	57
Total Month Inmate Census	309	324

*Source: Marin County Department of Health and Human Services

**Per Marin County Jail medication formulary

***Note that an inmate may be taking multiple psychotropic medications.

Intake Process

The intake process is a very critical time for the arrestee. Decisions made at this time can affect the health and well-being of the individual. It is also important to understand that the arrestee at this point is accused of and not convicted of a crime.

When an arrestee is brought to the Jail by a peace officer, a sheriff's deputy does a cursory evaluation of the detainee to determine if s/he should be admitted to the jail. For example, if the detainee is visibly ill or injured, the peace officer is directed to take the detainee to the emergency room at Marin General Hospital. When the medical issue is resolved, the detainee is returned to the jail for booking. A typical daytime booking is followed by a nurse's evaluation of the detainee, which includes a series of questions similar to those asked prior to admission to a hospital. The detainee is screened for communicable diseases and mental health status. The detainee is then classified and becomes a resident of the jail. Typically, this is acceptable with a routine arrestee during hours when mental health staff is available. During hours when mental health staff is not on duty, classification is left to the booking staff.

Circumstances can occur that could endanger the well-being of the arrestee. If no mental health professional is available for evaluation, a deputy is charged with making critical decisions. Experts interviewed by the Grand Jury recommended that only medically-trained staff should determine the mental condition of an inmate. Someone who might appear to be 'just' intoxicated might be suffering from diabetic shock, mental illness, or the effects of street drugs. Even someone clearly under the effect of alcohol is at risk of potentially life-threatening delirium tremens if not properly evaluated and treated.

Classification Process. Based on a set of specific criteria defined in the Jail's policy manual, each detainee is classified into one of seven groups (Table 6), which determine the inmate's housing area, uniform type, and time allowed out of the cell. (Note that in this classification system, "Mental Health" means that an inmate is mentally ill; similarly, "Medical" indicates that the inmate is physically ill.)

Table 6
Types of Inmate Classification*

1. General Population
2. Administrative Segregation
3. Maximum Security General Population
4. Protective Custody
5. Mental Health
6. Medical
7. Civil Commitment

Source: Marin County Jail Policy Manual

*For definitions of each category see Appendix A

When an inmate is defined as mentally ill, the sub-classifications shown in Table 7 apply. These sub-classifications are determined by the mental health staff who make a recommendation to the custody staff for placement of the inmate. These recommendations are not always followed. Deputies can override mental health staff recommendations.

Table 7	
Sub-Classification Levels of Mental Health (Class 5) Inmates	
II	Inmates with low to moderate psychiatric symptoms and who may have occasional bizarre and unpredictable behavior. They share recreation time out with the Medical classified inmates and other Level II inmates. Allowed out of their cell during general unlock 2 to 4 hours per day, or a minimum of 3 hours per week.
III	Inmates who have psychiatric symptoms with a potential for violence and need constant supervision. Includes suicide watches. Allowed out of their cell for 30 minutes to 1 hour per day, or a minimum of 3 hours per week, while the rest of the Pod is in lockdown status.
IV	Inmates with assaultive behavior and are a danger to staff and/or other inmates will be housed in Administrative Segregation.
V	An inmate displaying such psychiatric symptoms as would require the inmate be considered 5150 WIC. An inmate considered 5150 needs to be transferred to a facility designed to hold and treat severely mentally ill persons.

Note: There is no mention of Level I in the Jail sub-classification procedures.

There are serious consequences for inmates classified as Mental Health Levels III, IV and V.

Mental Health Level III. Inmates classified as Level III are restricted to their cell for 23 to 23½ hours a day. Mental health professionals interviewed by the Grand Jury, as well as the American Psychiatric Association¹⁵ state that keeping anyone confined for 23 to 23 1/2 hours per day for even a small number of days is likely to cause significant mental health damage. As one expert interviewed by the Grand Jury stated, “Keeping a mentally ill person confined like that only makes the mental illness worse.” The expert also said, “There are studies that show the effects with this type of treatment. If they are not already mentally ill, it will cause mental illness. ... I would go crazy if I had to stay in a cell 23 ½ hours a day.”

Other than medication, no other treatment or therapy is provided. There is no clinical remedy available for inmates who refuse medication.

¹⁵ American Psychiatric Association (2016). *Psychiatric Services in Correctional Facilities. 3rd Edition.* Arlington, VA

Mental Health Level IV. No instances of Level IV were found during the Grand Jury's inspection of the Jail. However, any inmate classified as Mental Health Level IV would be housed in Administrative Segregation where inmates are restricted to their cells for 23 ½ hours per day.

Mental Health Level V. The Jail does not currently have the capability to hold and treat severely mentally ill inmates classified as Level V.

Care of Mentally Ill Inmates in Marin County Jail

Drugs are the only form of treatment of mental illness used in the Jail, and then only if the inmate is willing to take them. Only those medications on the Jail's drug formulary are given to inmates, whether or not the inmate was being successfully treated with a non-formulary medication before being incarcerated. No individual or group psychotherapy is provided by mental health professionals. No occupational therapy is available and there is no social, educational, or recreational time.

An inmate may request to see a mental health professional. The consultation is generally done through a food port in the cell door, which does not allow for privacy. It is not structured, and not a regularly scheduled event.

A problem also arises when an inmate is violent or suicidal because of severe mental illness. The inmate is placed in a safety cell, the jail psychiatrist is contacted, and medication may be prescribed. If the inmate refuses medication, there is currently no alternative other than to keep the inmate in a safety cell until they are no longer a danger to themselves or others. *There is no time limit on the number of days an inmate can be confined in a safety cell.*

Safety Cells. Safety Cells are used to house and control inmates or arrestees who are a danger to themselves or others. The cell is padded and designed to hold only one person. All fixtures, such as security-type lighting, are mounted either outside the cell or are made inaccessible to the detainee. A grated hole in the floor serves as a toilet.

An inmate may be put into a safety cell because he or she is severely mentally ill, suicidal or high on drugs or alcohol; these conditions could result in violent or unsafe behavior. Safety cells are not intended to be used for punishment or as treatment but rather to keep the person safe from harm to themselves or others. While in a safety cell, inmates are offered food (no utensils) at regular mealtimes and water in a paper cup every two hours. A deputy or medical staff observes the inmate regularly to ensure safety.

While the purpose of the safety cell is to keep the inmate and the staff safe, there can be significant downsides. Mentally ill persons can be quite adversely affected by the lack of privacy and the lack of any comfort items, such as shoes, clothing, a blanket or bed. This can exacerbate an already critical situation, where the arrestee may already be suffering from severe mental illness. There are products available to help alleviate some of the humiliation and distress caused by the lack of comfort items and warmth. Such beds, blankets, slippers, and body covers are designed to be suicide proof and are virtually indestructible.



Safety Cell in Marin County Jail

It is important to note that California Title 15 states:¹⁶

“The safety cell described in Title 24, Part 2, Section 1231.2.5, shall be used to hold only those inmates who display behavior which results in the destruction of property or reveals an intent to cause physical harm to self or others. The facility administrator, in cooperation with the responsible physician, shall develop written policies and procedures governing safety cell use and may delegate authority to place an inmate in a safety cell to a physician. ... *In no case shall the safety cell be used for punishment or as a substitute for treatment.*” (Emphasis added.)

Safety Cell Use. In the Marin County Jail, safety cells are used primarily for inmates who are violent or suicidal, many of whom are mentally ill. Given the unavailability of other mental health facilities, such inmates may remain in a safety cell for an indefinite number of days.

In calendar year 2016, there were 331 separate instances of inmates being confined to safety cells (Table 8). Mentally ill inmates were confined 143 times and non-mentally ill inmates 188 times. Mentally ill inmates spend considerably longer times in safety cells, averaging 23.4 hours per incident compared with 8.3 hours for non-mentally ill inmates. Similarly, median time in safety cells for mentally ill inmates was more than double the median time for non-mentally ill inmates (17.7 hours vs. 6.5 hours). There were 35 incidents where a mentally ill inmate spent more than 24 hours in a safety cell, compared with 4 for non-mentally ill inmates. All stays in safety cells longer than 72 hours were by mentally ill inmates (stays of 89.2, 93.8, 127.7, and 248.7 hours).

¹⁶ [California Title 15](#)

Table 8 Safety Cell Use Marin County Jail, 2016 Length of Time per Confinement		
Time in Safety Cell	Number of Confinements	
	Mentally Ill Inmates	Non-Mentally Ill Inmates
< 12 hours	33	153
> 12 to 24 hours	75	31
> 24 to 48 hours	24	3
> 48 to 72 hours	7	1
>72 hours	4	0
Average Stay	23.4 hours	8.3 hours
Median Stay	17.7 hours	6.5 hours
Total Number	143	188

Note: Data provided by Marin County Sheriff’s Office

Long term use of Safety Cells, in which inmates do not leave their cell at all, and the procedure for Level III inmates, which requires 23 ½ hours per day inside the cell, is considered “extreme isolation.” This type of isolation can potentially worsen an inmate's mental health, causing them “to lapse in and out of a mindless state” or at “a heightened risk for suicide.”¹⁷

Example 1. As reported in the *Los Angeles Times* in 2016,¹⁸ “In nearly three years, Dominic Walker rarely looked another human being in the eye. Except for showers, he left his cell at Men’s Central Jail in downtown Los Angeles only once a week, to exercise in a small cage resembling a dog kennel. His conversations were typically shouted through cell bars to other inmates in his row. ‘It makes you feel like nobody. I’m here, the walls are closing in. It makes you hallucinate,’ said Walker, 34, who was released in June after prosecutors dropped his armed robbery charge. Mr. Walker spent three years in jail as a pre-trial inmate, before having the charges against him dropped.”

Example 2. More than a century ago, in an 1890 opinion in a case challenging a Colorado inmate’s placement in solitary confinement, U.S. Supreme Court Justice Samuel Freeman Miller described a Philadelphia jail “experiment” that found that inmates placed in isolation

¹⁷ [Davis v. Ayala - Supreme Court of the United States](#) (U.S. June 18, 2015) (Kennedy, J., concurring)

¹⁸ “[Los Angeles Times](#)”, 25 Sep. 2016

for “even a short confinement” fell into “a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide.”¹⁹

Long term use of isolation remains a problem. A settlement was reached in a Franklin County, Washington lawsuit that alleged inmate mistreatment. The settlement requires that changes be made to stop the practice of inmates being locked in their cells 23 hours a day.²⁰

The United States Supreme Court has ruled that there are six basic, essentially common sense, components of a minimally adequate prison mental health care delivery system.²¹ The components are: screening, staffing, recordkeeping, medication, suicide prevention, and “a treatment program that involves more than segregation and close supervision of mentally ill inmates.”²²

Marin County Jail policies may comply with most aspects of California Code of Regulations Title 15 governing Crime Prevention and Corrections, and Title 24, the sections of California law governing correctional institutions. However, procedures like those used in the Jail have not prevented inmates or inmate advocates from filing successful lawsuits against prisons and county jails in similar circumstances. While most of these cases were responses to treatment of inmates in prisons, it should be noted that many cases have been brought to the courts by plaintiffs who are or have been confined in county jails.

Involuntary Administration of Psychiatric Medication in Marin County Jail

AB 1907 specifically allows jails to administer involuntary medication to severely mentally ill inmates. (See Glossary for more complete description of AB 1907.) Previously, under a three-year contract with the Santa Clara County Jail any severely mentally ill inmate in crisis in Marin County Jail who refused to take psychiatric medications could be transferred to Santa Clara for involuntary administration of medication. During that period, an average of 10–12 individuals per year were transferred to Santa Clara. Since the contract ended, Marin County Jail has not had a procedure that would allow involuntary administration of psychiatric medication, even in an emergency. As a result, inmates who refuse medications are put into safety cells for their protection and the protection of other inmates and staff until such time as the crisis has passed or the inmate accepts medication. This practice is contrary to Title 15, which prohibits the use of safety cells as an alternative to treatment, whether voluntary or involuntary.

Recently a contract with California Psychiatric Transitions (CPT) was signed, ostensibly for replacing the Santa Clara Jail facility. This alternative is inadequate, however. Like Santa Clara,

¹⁹ [In re Medley, 134 U.S. 160 1890](#)

²⁰ [“Tri-City Herald”](#) 16 Feb. 2016

²¹ [Coleman v. Brown, 938 F. Supp.2d 955, 970 \(E.D. Cal. 2013\).](#)

²² [Report on Inspection of Sonoma County Main Adult Detention Facility](#), Disability Rights California, 2015

it is expensive; currently \$1,450,000 per year is budgeted for CPT. Similarly, CPT is located at a considerable distance from San Rafael (over 100 miles), which places severe hardship and cost on relatives and county employees who need to travel to visit or manage inmates who are committed to CPT. Unlike Santa Clara, CPT is not a jail facility.

Even after repeated questioning, officials familiar with CPT were unable to confirm to the Grand Jury whether or not a convicted inmate serving a sentence at the Jail would be eligible to be transferred to CPT. The facility is not designed to care for convicted inmates, nor could inmates experiencing a mental health emergency be transported to CPT safely and in a timely manner.

In the Jail's policy manual²³ the procedure still refers to transferring inmates to Santa Clara, even though the contract was terminated at the end of 2015. Many of the policies and procedures have not been updated or reviewed for as many as 12 years.

Addressing the need to be able to administer medications on an involuntary basis for the health and welfare of a mentally ill inmate in crisis is not adequately addressed by transporting an inmate to a distant facility. As mental health experts told the Grand Jury, it is far from optimal to transport an inmate over 65 miles to receive involuntary medication in Santa Clara, let alone 125 miles to a facility in California's Central Valley. Not only does this type of transport disrupt an inmate's family and social support system, it is also very costly to the Jail. Local solutions to address this issue should be identified and implemented.

According to the American Psychiatric Association, "Each facility or administrative authority should prepare a regularly updated quality improvement plan that systematically sets out to review and improve the quality of mental health services."²⁴ No mention of involuntary administration of psychiatric medications appears in the Jail's Quality Assurance meeting minutes. The minutes contain little mention of increasing quality of care for the severely mentally ill. The Grand Jury found no evidence of a quality improvement plan for mental health services in the Jail.

²³ Marin County Jail Policy Manual, CUS-4-7-Sub-Classification of Mental Health-1052

²⁴ American Psychiatric Association (2016). *Psychiatric Services in Correctional Facilities*. 3rd Edition. Arlington, VA

DISCUSSION

Marin County has a responsibility to provide acceptable mental health care for the ever-increasing mentally ill population in its jail. This responsibility has been defined by California law and a series of court cases that interpret that law. In addition, the Eighth amendment to the US Constitution, prohibiting “cruel and unusual punishment,” has been interpreted as circumscribing the ways that mentally ill inmates can be treated. An examination of the treatment of mentally ill inmates has led us to conclude that changes are necessary in a number of key areas regarding this treatment. While the Grand Jury recognizes the difficulties that may be encountered by Marin and other small counties in providing legally adequate mental health services, it is nonetheless necessary to protect the rights of inmates to receive adequate mental health services. The County should address this issue as soon as possible.

Several factors have exacerbated the problems of mentally ill inmates in recent years. Jails have historically been “short stay” facilities, with typical lengths of stay varying from days to months. This situation is no longer the case for many inmates. The passage of AB 109 resulted in longer average lengths of stay since many felons with long sentences are now being housed in county jails. This new class of inmates requires a level of attention not previously needed. Both staffing and procedures need to change to meet their needs.

The physical and mental health care of inmates in county jails are the county’s responsibility. Persons in state prisons and county jails have a constitutionally-derived right to treatment for their serious medical needs, including treatment for serious mental illness.²⁵ The failure to provide such treatment to incarcerated individuals with serious mental illness has been deemed cruel and unusual punishment by the US Supreme Court. The care that is provided must meet the “community standard” of care that is provided to non-incarcerated persons.

There are several possible local alternatives to the Santa Clara Jail for the treatment of acute and emergency psychiatric episodes, including performing these services within the Marin County Jail. With appropriate clinical staffing, and some modification in facilities, both clinical best practice and the law require that appropriate emergency mental health care be administered in the Jail.

In our discussions with staff of the Department of Health and Human Services, there appears to be a basic misunderstanding of clinical and legal requirements for these services in the Jail. According to both clinical and legal advice that the Grand Jury received, such appropriate services can be provided within the jail and do not require additional special waivers or designations for the Jail. This should be given appropriate and extensive consideration by the Jail, the Department of Health and Human Services, and the Board of Supervisors.

²⁵ Psychiatric Services in Correctional Facilities. *American Psychiatric Association*. 2016

Other local alternatives should also be given serious consideration, including contracting with Marin General Hospital, and/or Novato Community Hospital, and/or Kaiser Permanente to provide emergency services to mentally ill inmates who are in danger of hurting themselves or others.

Marin General Hospital currently has a mental health ward that is generally at capacity and is not sufficiently secure to house inmates. While Marin General Hospital's current facility may not be able to accommodate this type of care without renovation, the hospital is currently in the early stages of building a new \$534 million hospital, with the help of a \$390 million general obligation bond measure approved by Marin County taxpayers. Given Marin General Hospital's responsibility to the people of Marin, both as a district hospital and as a beneficiary of taxpayer dollars, this would be an appropriate time for the people of Marin, through the Board of Supervisors, to ask that the new hospital include appropriate facilities to provide inpatient care for Marin County Jail inmates.

Another potential alternative is Novato Community Hospital, which currently has an unused eight-bed, locked ward previously used for San Quentin prisoners. In addition, Marin County may be able to join with other adjacent northern Bay Area counties to resolve this issue locally.

A local solution to the issue of providing adequate emergency mental health services for Jail inmates, whether within the Jail or at another local Marin County facility, would be far preferable to transporting inmates in crisis to a distant and costly care facility. Such possible local resources include the Department of Health and Human Services' Crisis Stabilization Unit located at Marin General Hospital, and the locked psychiatric ward at MGH. Because of the attractiveness of such a local solution, the Grand Jury spent considerable time and effort trying to understand the feasibility of a solution that might include these resources, whether separately or in combination. The more people we talked with about this issue, however, the more varied was the information that we received. Not only did the answers differ among respondents, on occasion the same respondent provided different answers at different times. Therefore, while the Grand Jury still believes that some combination of these resources would be the best solution, we are unable to make a specific recommendation in this area. The Grand Jury would point out, however, that this uncertainty, and possible confusion, among our sources of information may be symptomatic of a deeper problem: a lack of understanding, communication, and policymaking regarding this issue within the Department of Health and Human Services and the Jail.

In January 2017, along with 52 of the 58 other counties in California, Marin County participated in a conference about the "Stepping Up Initiative" to reduce the number of mentally ill persons in jails. While this is a welcome acknowledgment of the problem, it is only a start. As yet there are few details and no timeline as to how or when the County plans to achieve the goals of the Initiative.

None of these possible local alternatives could be implemented immediately, but the Grand Jury believes that the Board of Supervisors and the Department of Health and Human Services should promptly begin planning for the development, funding, and implementation of a long term local solution that provides appropriate emergency and inpatient care for mentally ill inmates in Marin County Jail.

CONCLUSION

Although identifying and committing adequate resources to provide appropriate mental health care in Marin County Jail may be difficult for the County, there are important reasons that a significant enhancement of mental health care in the Jail should be a high priority. Current staffing and organization of mental health care in the Jail is inadequate, and appears not to conform to California law and code nor to court rulings regarding the care that should be provided to incarcerated persons. In particular, delays in assessment and treatment of recently booked mentally ill inmates, lack of adequate local processes to address emergency mental health crises, inadequate 24/7 clinical coverage, and the use of safety cells for acute mental illness episodes need to be addressed as soon as possible. There appear to be clear violations of the rights of inmates to adequate care based on, and equivalent to, “community standard” care.

Marin is one of the richest counties in the nation. Surely the County can find adequate resources to provide humane mental health care to inmates in Marin County Jail that meets the requirements of the law and accepted clinical practices.

FINDINGS

- F1. A significant number of inmates in the Marin County Jail have severe mental illness.
- F2. The Jail's clinical and custodial staff are highly professional, dedicated, and competent.
- F3. Due to deficiencies in policies, organization, management, and staffing levels, mental health care in Marin County Jail is inadequate.
- F4. No mental health staff are on site for large parts of every day.
- F5. The Jail experiences a high level of turnover in the mental health 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.
- 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.
- F8. The mental health status of inmates at the time of booking is often performed by deputies rather than mental health staff.
- 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.
- 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.
- F11. Neither individual nor group psychotherapy is provided by professional mental health staff.
- F12. The Jail's clinical quality assurance process does not adequately address mental health issues in the Jail.
- 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.
- 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.

RECOMMENDATIONS

- 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.
- R2. Safety cells should never be used for mentally ill inmates as a substitute for adequate medication and/or other psychiatric treatment.
- 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.
- R4. The Jail should, within 6 months, establish or contract with a local facility where involuntary administration of psychiatric medication can take place.
- 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.
- 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.
- R7. A Mental Health Crisis Specialist or a Psychiatric Nurse should be available at the jail 24 hours per day, 7 days per week.
- 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.
- R9. Booking of inmates should at all times include screening for mental illness by a nurse using an accepted mental health screening tool.
- R10. Classification of inmates as mentally ill should be reviewed by a member of the mental health staff within one hour of booking.
- 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.
- R12. The Jail should develop, implement, and enforce a quality improvement procedure and establish a quality improvement plan for mental health services.
- R13. The County should provide adequate funding to implement these recommendations.

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- The Marin County Board of Supervisors (R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13)

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933 (c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

From the following individuals:

- The Marin County Sheriff (R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12)

The Grand Jury invites the following to respond:

- Director, Marin County Department of Health and Human Services
- Chief Probation Officer, Marin County Department of Probation
- Marin County Public Defender
- Secretary, California Department of Corrections and Rehabilitation
- Secretary, California Health and Human Services Agency
- Chairperson, Executive Committee, California Mental Health Planning Council
- Executive Director, Board of State and Community Corrections
- Executive Director, California Psychiatric Association
- Executive Director, NAMI California
- President, California State Bar Association
- President, Disability Rights California
- President, California Mental Health Services Authority
- President, Mental Health America of California

Note: At the time this report was prepared, information was available at the websites listed.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

APPENDIX A

Types of Inmate Classification

Source: Marin County Jail Policy Manual

General Population: Inmates who are capable of functioning in large groups and are not considered a security risk.

Administrative Segregation: Inmates who present a threat or danger to other inmates, staff, property, security or order of the facility. Administrative Segregation No Mix classification is for inmates who are either extremely dangerous, sophisticated or so disruptive that they cannot be mixed with other Administrative Segregation inmates for the purpose of temporary holding in court holding cells.

Maximum Security General Population: Inmates with a security level just below Administrative Segregation. These inmates cannot function in an open pod setting with minimal supervision, but are not generally dangerous to staff.

Protective Custody: Inmates whose personal safety is in jeopardy, due to the nature of their charges, physical stature, threats, or it is determined by staff they could be considered to be in danger. Protective custody No Mix classification are inmates who require the added protection from other PC inmates either due to an inability to get along with the other protective custody inmates or due to gang status, threats, elevated victim potential, or ineligible to be housed in Lockdown.

Mental Health: Inmates who require medication to stabilize their behavior, and/or admit to a prior participation in a jail mental health program, or exhibit a bizarre behavior patterns. These inmates will be further sub-classified by the Pod Deputy and mental health staff.

Medical: Inmates who are exhibiting symptoms or are suspected of having a communicable disease and/or need more constant medical attention than available in other Pods. Inmates with medical disability who require constant care or assistance will be housed in Medical. All Medical housing will be directed by the medical staff.

Civil Commitment: Inmates who legally require complete segregation from other inmates. These inmates are not housed for a criminal charge, but are committed as a punishment for disobedience to the orders of the court

GLOSSARY

[AB 109](#) In 2011, Governor Edmund G. Brown Jr. signed Assembly Bill (AB) 109 and AB 117, historic legislation that has helped California to close the revolving door of low-level inmates cycling in and out of state prisons. It is the cornerstone of California’s solution for reducing the number of inmates in the state’s 33 prisons to 137.5 percent of design capacity by June 27, 2013, as ordered by the Three-Judge Court and affirmed by the U.S. Supreme Court. All provisions of AB 109 and AB 117 are prospective and implementation of the 2011 Realignment Legislation began October 1, 2011. No inmates in state prison have been or will be transferred to county jails or released early.

[AB 117](#) Makes statutory changes necessary to implement the Public Safety Realignment portions of the 2011-12 budget by making additional substantive and technical changes relevant to AB 109 (Budget Committee), Chapter 15, Statutes of 2011, pertaining to the realignment of certain low-level felony offenders, and adult parolees from state to local jurisdiction.

[AB 1907](#) This bill revises the provisions authorizing the Department of Corrections and Rehabilitation to seek to initiate involuntary medication on a nonemergency basis only if specified conditions are met by instead requiring that the psychiatrist make a determination that the inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medication, or is a danger to self or others.

“SEC. 3. Section 2603

(a) Except as provided in subdivision (b), no person sentenced to imprisonment in a county jail shall be administered any psychiatric medication without his or her prior informed consent.

(b) If a psychiatrist determines that an inmate should be treated with psychiatric medication, but the inmate does not consent, the inmate may be involuntarily treated with the medication. Treatment may be given on either a nonemergency basis as provided in subdivision (c), or on an emergency or interim basis as provided in subdivision (d).

(c)...

(d) Nothing in this section is intended to prohibit a physician from taking appropriate action in an emergency. An emergency exists when there is a sudden and marked change in an inmate’s mental condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others, and it is impractical, due to the seriousness of the emergency, to first obtain informed consent. If psychiatric medication is administered during an emergency, the medication shall only be that which is required to treat the emergency condition and shall be administered for only so long as the emergency

continues to exist. If the clinicians of the county department of mental health, or other designated county department, identify a situation that jeopardizes the inmate's health or well-being as the result of a serious mental illness, and necessitates the continuation of medication beyond the initial 72 hours pending the full mental health hearing, the county department may seek to continue the medication by giving notice to the inmate and his or her counsel of its intention to seek an ex parte order to allow the continuance of medication pending the full hearing. Treatment of the inmate in a facility pursuant to Section 4011.6 shall not be required in order to continue medication under this subdivision unless the treatment is otherwise medically necessary. The notice shall be served upon the inmate and counsel at the same time the inmate is given the written notice that the involuntary medication proceedings are being initiated and is appointed counsel as provided in subdivision (c). The order may be issued ex parte upon a showing that, in the absence of the medication the emergency conditions are likely to recur. The request for an ex parte order shall be supported by an affidavit from the psychiatrist or psychologist showing specific facts. The inmate and the inmate's appointed counsel shall have two business days to respond to the county department's ex parte request to continue interim medication, and may present facts supported by an affidavit in opposition to the department's request. A superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer shall review the ex parte request and shall have three business days to determine the merits of the department's request for an ex parte order. If an order is issued, the psychiatrist may continue the administration of the medication until the hearing described in paragraph (5) of subdivision (c) is held."

Food Port. A small opening in a jail cell door through which food is passed to incarcerated inmates. Also used for handcuffing dangerous inmates prior to opening the cell door by reaching through the port to attach the handcuffs.

Jail. A place of confinement for persons held in lawful custody; *specifically*: such a place under the jurisdiction of a local government (as a county) for the confinement of persons awaiting trial or those convicted of minor crimes.

LPS. The Lanterman-Petris-Short Act. Part of the [Welfare and Institutions Code \(WIC\)](#) section 5000–5121. Specifically, Section 5150 of the Welfare and Institutions Code. Provides guidelines for handling involuntary civil commitment of individuals to mental health institutions in the State of California.

Prison. A place of confinement especially for lawbreakers; *specifically*: an institution (as one under state jurisdiction) for confinement of persons convicted of serious crimes.

Title 15. California Code of Regulations Title 15, Crime Prevention and Corrections. Sections 3351 and 3364 define the requirements for involuntary administration of medications to severely mentally ill inmates.

Riese Hearing. (Medication Capacity Hearing, WIC 5332 or antipsychotic medication capacity hearing). A facility-based hearing to determine if a person on any of the LPS holds, other than a conservatorship, has the capacity to refuse psychiatric medications.

Serious Mental Disorder. The California Welfare and Institutions Code 5600.3 (b) (2) defines serious mental disorder as:

“For the purposes of this part, “serious mental disorder” means a mental disorder that is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include, but are not limited to, schizophrenia, bipolar disorder, post-traumatic stress disorder, as well as major affective disorders or other severely disabling mental disorders. This section shall not be construed to exclude persons with a serious mental disorder and a diagnosis of substance abuse, developmental disability, or other physical or mental disorder.

... (b) (4) For the purpose of organizing outreach and treatment options, to the extent resources are available, this target population includes, but is not limited to, persons who are any of the following: (A) Homeless persons who are mentally ill. (B) Persons evaluated by appropriately licensed persons as requiring care in acute treatment facilities including state hospitals, acute inpatient facilities, institutes for mental disease, and crisis residential programs. (C) *Persons arrested or convicted of crimes.*” (Emphasis added)

5150. Welfare and Institutions Code Section 5150–5155,

“(a) When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services. At a minimum, assessment, as defined in Section 5150.4, and evaluation, as defined in subdivision (a) of Section 5008, shall be conducted and provided on an ongoing basis. Crisis intervention, as defined in subdivision

(e) of Section 5008, may be provided concurrently with assessment, evaluation, or any other service. ...”

5250. [Welfare and Institutions Code Section 5250-5259.3](#) Section 5250 provides for a person deemed to have certain mental disorders following being involuntarily held for 72 hours under a Section 5150 hold to be held for an additional 14 days. The hold is placed by psychiatric staff who deems a person to have a mental disorder that poses a danger to him or herself and/or others, or to be gravely disabled and requires more than a 72-hour hold for treatment.

Short-Doyle Act. The Short-Doyle Act seeks to encourage the treatment of a patient suffering from a psychiatric disorder in his home community, with the assistance of local medical resources. One corollary of this program is the closer working together of the psychiatrist and the rest of the medical profession. A second goal of the act is the application of the public health principles to mental illnesses and mental retardation. Educational and consultative services provide implementation of these principles.