



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
C-9

For the meeting of: September 15, 2015

Date: August 27, 2015

To: Board of Supervisors

From: Phillip R. Crandall, Director Humboldt County Department of Health & Human Services
Michael Downey, Humboldt County Sheriff *MD* *Bd for P.C.*

Subject: Authorize the Mental Health Director and the Sheriff, pursuant to Penal Code section 1369.1, to designate the Humboldt County Correctional Facility as a treatment facility in order to provide medically approved medication to inmates who are found to be mentally incompetent to stand trial and unable to provide informed consent due to a mental disorder.

RECOMMENDATION(S):

That the Board of Supervisors approve the attached Resolution and designate the Humboldt County Correctional Facility a Treatment Facility within the meaning of Penal Code section 1369.1 for the sole purpose of allowing inmates who have been found incompetent to stand trial prompt access to psychiatric medication.

SOURCE OF FUNDING:

Mental Health Fund and County General Fund.

Prepared by _____ CAO Approval *Chef Dillingham*

REVIEW: Auditor _____ County Counsel *NAD* Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor *Bass* Seconded by Supervisor *Lorelace*
Ayes *Sundberg, Lorelace, Fennell, Bohm, Bass*
Nays _____
Abstain _____
Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *Sept. 15, 2015*
By: *[Signature]*
Kathy Hayes, Clerk of the Board

DISCUSSION:

Board approval of the recommended action will assure timely and humane access to psychiatric medication by defendants who have been found to be incompetent to stand trial and are waiting to be transferred to another facility for competency restoration.

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 treatment facilities for the purpose of administering antipsychotic medication to defendants that have been found mentally incompetent to stand trial and unable to provide informed medication consent due to a mental disorder.

Currently, HCCF is not designated as a treatment facility pursuant to Penal Code section 1369.1 and, therefore, may not provide defendants who have been found mentally incompetent to stand trial and unable to provide informed medication consent with antipsychotic medication pursuant to a court order while they are housed in the facility. These individuals are frequently committed for treatment to the California Department of State Hospitals or other treatment facilities. Often defendants wait weeks or months to be transferred to a State Hospital or other treatment facility due to the high demand for beds. As a consequence, many defendants do not progress toward competency while incarcerated at HCCF and their mental competency deteriorates further.

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 and the county sheriff, a county jail may be designated to provide medically approved medication to defendants found to be medially incompetent to stand trial and unable to provide informed consent due to a mental disorder.

Background:

A person cannot be tried or convicted while that person is mentally incompetent. Accordingly, if a defendant is found mentally incompetent to stand trial, the court must suspend the trial or judgment until he or she becomes competent. In the meantime, the court must order a mental evaluation of the defendant and must order that he or she be confined to an available public or private treatment facility approved by the county mental health director that will promote the defendant's speedy restoration to competency or that he or she be placed on outpatient status or, if the defendant is charged with a felony, alternatively, that he or she be confined to a state hospital for care and treatment of the mentally disordered.

Additionally, the court must hear and determine whether the defendant, with advice of counsel, consents to the administration of psychotropic medication. If the defendant does not consent, the court must conduct a hearing and, upon certain conditions, may issue an order authorizing the treatment facility to involuntarily administer antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist.

Incompetent to Stand Trial (IST) Medication Guidelines that conform to Penal Code section 1369.1 have been developed by Humboldt County Mental Health and the Sheriff's Office. Program managers of Humboldt County Mental Health and the Sheriff's Office will monitor the IST medication administration program on an ongoing basis, including ensuring that the maximum period of time a defendant is treated with involuntary antipsychotic medication does not exceed six months, as specified by Penal Code section 1369.1.

FINANCIAL IMPACT:

The cost of psychiatric medications for inmates with mental illness is included in the Department of Health and Human Services, Mental Health budget fund number 1170-427, including medications for those that have been adjudicated incompetent to stand trial due to a mental disorder. It is anticipated that the financial impact would be minimal if any and may provide a savings in cost over time.

OTHER AGENCY INVOLVEMENT:

The Superior Court of California, County of Humboldt.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may choose not to adopt the resolution. This is not recommended because it would deny mentally ill inmates housed in the HCCF the opportunity to receive treatment with psychotropic medications while waiting for a bed in State Hospital and would facilitate the restoration to competency of misdemeanor offenders. Additionally, the financial impact is minimal.

ATTACHMENTS:

Proposed Resolution

Letter from Humboldt County Sheriff and Humboldt County Mental Health Director agreeing to the designation of the Humboldt County Correctional Facility as a treatment facility within the meaning of Penal Code section 1369.1

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of September 15, 2015

RESOLUTION NO. 15-100

RESOLUTION OF THE HUMBOLDT COUNTY BOARD OF SUPERVISORS DESIGNATING THE HUMBOLDT COUNTY CORRECTIONAL FACILITY AS A TREATMENT FACILITY WITHIN THE MEANING OF PENAL CODE SECTION 1369.1 SO AS TO PROVIDE DEFENDANTS FOUND TO BE MENTALLY INCOMPETENT TO STAND TRIAL PROMPT ACCESS TO MEDICALLY APPROVED MEDICATION

WHEREAS, Penal Code section 1369.1 permits, upon the concurrence of the county Board of Supervisors, the County Mental Health Director, and the County Sheriff, the designation of a county jail to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder pursuant to Penal Code section 1367 *et seq.*; and

WHEREAS, the Sheriff of Humboldt County and the Director of Humboldt County Mental Health concur with said designation (attached as Exhibit A); and

WHEREAS, the Humboldt County Correctional Facility houses persons found to be incompetent to stand trial for up to six months before being able to transfer these individuals to a State Mental Health Institution; and

WHEREAS, the Humboldt County Sheriff strongly desires to house persons found to be incompetent to stand trial in the most humane manner possible; and

WHEREAS, some persons found to be incompetent to stand trial are held in administrative segregation until they are received by a State Mental Health Institution and are highly susceptible to decompensating without appropriate medication; and

WHEREAS, it is common that persons found to be incompetent to stand trial refuse to take their medication. As a result, they decompensate to the point where it is impossible to manage their behavior without the extended use of a Safety Cell; and

WHEREAS, if the Humboldt County Board of Supervisors granted authority to the Humboldt County Sheriff and Humboldt County Mental Health Director to involuntarily medicate those persons found to be incompetent to stand trial that refuse their medication, decompensation and a poor outcome could be avoided.

NOW, THEREFORE, BE IT RESOLVED that the County of Humboldt Board of Supervisors, the Humboldt County Sheriff, and the Humboldt County Mental Health Director hereby agree to designate the Humboldt County Correctional Facility to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder, pursuant to Penal Code section 1367 *et seq.*

Dated: September 15, 2015



ESTELLE FENNELL, Chair
Humboldt County Board of Supervisors

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of September 15, 2015

RESOLUTION NO. 15-100

Adopted on motion by Supervisor Bass, seconded by Supervisor Lovelace, and the following vote:

AYES: Supervisors Sundberg, Lovelace, Fennell, Bohn, Bass
NAYS: Supervisors --
ABSENT: Supervisors --
ABSTAIN: Supervisors --

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By ANA HARTWELL
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California



COUNTY COUNSEL
COUNTY OF HUMBOLDT

825 FIFTH STREET

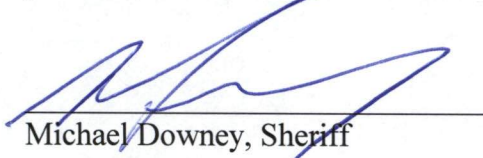
EUREKA, CALIFORNIA 95501

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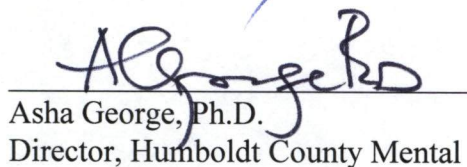
August 27, 2015

RE: Designation of Humboldt County Correctional Facility to Provide Medication to Defendants Found to Be Incompetent Pursuant to Penal Code Section 1369.1

We, the Humboldt County Sheriff Michael Downey, and the Mental Health Director, Asha George, Ph.D., agree to the designation of the Humboldt County Correctional Facility to provide medically approved medication to Defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder pursuant to Penal Code section 1367 et seq.



Michael Downey, Sheriff



Asha George, Ph.D.
Director, Humboldt County Mental Health