



GRAND JURY  
**COUNTY OF HUMBOLDT**

825 FIFTH STREET  
EUREKA, CALIFORNIA 95501-1153      PHONE (707) 476-2475

July 3, 2019

Humboldt County Board of Supervisors  
825 5TH Street  
Eureka CA, 95501

Re: Enclosed Report: **THE LAST RESORT**

Dear Board of Supervisors,

On behalf of the 2018-2019 Grand Jury, I am providing to you the following report:

**THE LAST RESORT**

This report is being provided to you in advance of its general release pursuant to Penal Code section 933.05, subdivision (f), which provides:

A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. **No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.**

It is very important that you comply with this confidentiality requirement.

The Penal Code also prescribes the obligations of a governing board or elected county official with regard to responding to the grand jury's findings and recommendations. Specifically, if the report contains one or more recommendations directed to you as an elected county official, or to the governing board of which you are a member, you must respond to those recommendations and to the supporting findings, as directed in the report.

The time within which to respond is prescribed by subdivision (c) of Penal Code section 933, which states in relevant part:

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No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. **All such comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury.**

The Penal Code also prescribes the content of your responses. Subdivisions (a) through (c) of Penal Code section 933.05 state:

- (a) For purposes of subdivision (b) of Section 933, as to **each grand jury finding**, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding.
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed **and shall include an explanation of the reasons therefor.**
- (b) For purposes of subdivision (b) of Section 933, as to **each grand jury recommendation**, the responding person or entity shall report one of the following:
  - (1) The recommendation has been implemented, **with a summary regarding the implemented action.**
  - (2) The recommendation has not yet been implemented, but will be implemented in the future, **with a time frame for implementation.**
  - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, **and a time frame for the matter to be prepared for discussion** by the officer

or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, **with an explanation therefor.**
  
- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the department head and the board of supervisors shall respond if requested by the grand jury, but the response to the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Please be aware that your responses will be a matter of public record and widely read by both community members and local media. Therefore, it is important that your responses be as clear and specific as possible. A response that is vague, does not provide a clear explanation of any action that has or will be taken, or that does not include a specific time frame for implementation, is neither helpful nor legally sufficient. Furthermore, if a response does not comply with the applicable provisions of the California Penal Code, you may be directed by the presiding judge to provide an amended response.

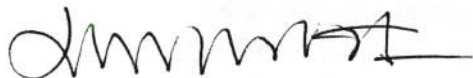
**Please send your response addressed to the Honorable Joyce Hinrichs, Presiding Judge, Humboldt County Superior Court, 825 5th Street, Eureka, CA 95501 with a copy to the Civil Grand Jury, within the time period provided in subdivision (c) of Penal Code section 933 (see above).**



The 2018-2019 Humboldt County Civil Grand Jury reports, and the responses to them, will be posted on the Grand Jury's website. We would appreciate receiving an electronic copy, as well as a signed hard copy, of your response. You may email a copy to <grandjury@co.humboldt.ca.us>.

Thank you for your cooperation in providing a meaningful and timely response.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Kravitz', with a long horizontal flourish extending to the right.

Joseph Kravitz, Foreperson  
Humboldt County Civil Grand Jury

# The Last Resort

*As providers of last resort, county jails have become the de facto mental health providers of many of our most critical needs patients. County jails are not equipped, nor structured, to have successful intervention with such demanding populations. - Sheriff, Iowa*

## SUMMARY

It seems odd that a small jail in a rural California county would experience a significant impact from decisions made by the United States Supreme Court and California legislators and voters. But, the Humboldt County Correctional Facility (HCCF) has been affected by five specific actions. The first dates from the early 1970s when California's Governor Ronald Reagan signed the Lanterman-Petris-Short Act which shuttered many of the States mental institutions. The next was the 2011 decision issued by the United States Supreme Court in the case of *Brown v. Plata* which ordered California to decrease its state prison population. The last three, Assembly Bill 109 (AB 109) (2011), Proposition 47 (2015), and Proposition 57 (2016) had the most immediate impact. Each dealt with the way California decided to accomplish the prison population decrease ordered by the United States Supreme Court.

The focus of the Humboldt County Civil Grand Jury (HCCGJ) in its investigation primarily concerned the correctional facility's delivery of mental health care under these five actions. We found that the Lanterman-Petris-Short Act increased the number of mentally ill people who are placed in jail because there is nowhere else for them to go. The *Brown v. Plata* decision meant that as California's prisons emptied, the county jails' populations grew. Many of the health care issues which had been the State's responsibility now became the county's. The last three, AB 109, Proposition 47, and Proposition 57 have resulted in even more problems. The HCCF is now housing more "experienced" inmates for longer periods of time. The new inmates tend to be older with more mental health problems; the new type of inmate has created a different environment in the facility, with racial issues being more prevalent and with violence increasing.

Our in-depth study found the Department of Health and Human Services (DHHS) mental health staff working in the jail is not able to provide an adequate standard of care due to the number of inmates staff is expected to treat, in a facility that is not equipped for mental health services, and with inadequate staffing and funding. Those who work in the correctional facility are dedicated to doing the best they can to serve their patients, but they are hindered by the conditions under which they must work. These factors not only affect the jail population and its dedicated staff, but also the community as a whole.

## BACKGROUND

When a government entity becomes aware of a problem, it usually establishes a committee, hires a consultant, studies the issues, and finally creates a solution. It is not a quick procedure. And the ultimate irony is that the solution often creates other problems. The new problems must be studied, investigated, and potentially solved, taking more time. And, guess what, the new solutions often create even more problems. It seems like an endless process!

For example, in the 1960s California's mental health institutions reached a crisis. They were overcrowded and understaffed. Many had become little more than holding pens. Some patients were involuntarily committed. The legislature's solution was to enact the Lanterman-Petris-Short Act (LPS). While the legislation defined the process by which patients could be involuntarily committed to mental institutions, it effectively ended most judicial commitments to such facilities. Governor Ronald Reagan signed it into law on July 1, 1972.

Complications arose in 1986-1987. Prior to then, the LPS allowed involuntary treatment to those who were detained under an initial three-day hold called 5150. It was also believed it was applicable to the longer 14-day hospitalization known as 5250. This treatment allowed the administration of psychotropic drugs. In the 1987 case *Riese v. St. Mary's Hospital and Medical Center*, the California State Court of Appeals declared patients had the right to exercise informed consent regarding the use of anti psychotropic drugs, except in an emergency. If a patient refuses medication "a judicial determination of their incapacity to make treatment decisions" was required before a patient could be involuntarily treated. While *Riese* hearings respected patients' rights, they limited treatment options.

In the late 1980s, Nick Petris, the legislator representing Oakland and Berkeley for 40 years, expressed his dissatisfaction with the results of the LPS Act which bears his name. In an oral history piece Petris recorded in 1989, he stated that the law, "went overboard." In it he channeled a mentally ill person saying,

"If I had broken a leg or had a heart attack, you would be swarming all over the place with doctors and nurses and this and that. Why the hell didn't you get me treatment?"

'Well, because you resisted.'

"Well baloney I resisted! Of course, I resisted, because I didn't know what the hell I was doing."

The LPS Act remains in place. Nearly 50 years later, it continues to be discussed and studied.

Another government action which complicates treatment of California's mentally ill is the United States Supreme Court's 2011 decision in the case of *Brown v. Plata*. The Court ruled prison overcrowding had a detrimental effect on the State's ability to provide adequate medical care to its incarcerated. The Court found that "adequate care" is guaranteed by provisions of the Eighth Amendment to the United States Constitution.



As a result, California's elected officials set to work to develop a plan to meet the Court's ruling. Rather than building more prisons to lessen overcrowding, California passed Assembly Bill 109 (AB 109). Its stated aim is to divert people convicted of certain classes of less serious crimes from incarceration in the California Department of Corrections (CDCR) to local county jails. California's voters approved two Propositions, 47 and 57, which were designed to clarify the earlier AB 109.

Each of the above, although well-meaning solutions, created new problems in delivering mental health care. The mentally ill who are not incarcerated face difficult situations as many receive no care whatsoever. Some have become homeless; others have attempted to self-medicate; and many have found themselves in correctional institutions. Reducing the number of inmates in State correctional facilities has led to increased numbers in local jails. A second impact was the re-classifying of some felonies to misdemeanors which has increased the population in local jails.

The Humboldt County Correctional Facility (HCCF), like many other county jails, has found itself dealing with a more sophisticated inmate population. Those who have been in state prisons and are now in county jails have introduced "prison culture" to county jails. Gang-related violence has increased. Another impact is that inmates are now serving longer sentences in the county jail. In the past inmates were limited to terms of one year. Now there is no limit on the number of years an inmate may serve there.

This makes it difficult for HCCF to provide adequate and appropriate medical, dental, and mental health care for its inmates. To be receiving the mental health care they need, inmates would be better treated in institutions that offer more comprehensive services. On the streets of Eureka, in other Humboldt areas, and in communities throughout the state, many of the mentally ill wander untreated and end up in the County jail.

The 2018-2019 Humboldt County Civil Grand Jury (HCCGJ) received a complaint about the mental health care provided to inmates in HCCF. A committee studied the complaint and interviewed the complainant twice. As a result, questions about the policies, supervision, and services provided to mentally ill inmates arose. After preliminary steps involving discussion, additional reading, and facility tours, the HCCGJ concluded the complaint had merit and decided to investigate the mental health care the Department of Health and Human Services (DHHS) provides to the incarcerated and the effects of a larger jail population on HCCF.

## **METHODOLOGY**

In preparation for this report, the Humboldt County Civil Grand Jury:

- Conducted interviews with the complainant
- Conducted interviews with representatives from the Sheriff's Office

- Conducted interviews with representatives from the Humboldt County Correctional Facility
- Conducted interviews with representatives from the Department of Health and Human Services
- Conducted interviews with Patients Rights Advocates
- Conducted interviews with mental health staff working in the Humboldt County Correctional Facility
- Conducted interviews with former mental health staff members in both the Department of Health and Human Services and the Humboldt County Correctional Facility
- Conducted interviews with each member of the Board of Supervisors
- Researched a United States Supreme Court decision concerning health care for the incarcerated
- Researched California laws and legislation relating to mental health services for the incarcerated
- Researched current and upcoming State funding available relating to mental health services for the incarcerated
- Researched newspaper, internet, magazine, and journal articles relating to mental health services for the incarcerated locally, in California, and the nation
- Researched other State of California counties and the mental health care services offered to inmates
- Reviewed Humboldt County Board of Supervisors' actions relating to mental health issues in the Humboldt County Corrections Facility and the Humboldt County Department of Health and Human Services
- Toured the Humboldt County Correctional Facility, Sempervirens Mental Health Unit, and the Crisis Stabilization Unit
- Reviewed budget allocations for mental health services in the Humboldt County Correctional Facility

## **DISCUSSION**

The county jail of 2019 is not the county jail of the past. Throughout California, jails have seen dramatic changes in their populations and processes with the 2011 Public Safety Realignment Act, commonly referred to as Assembly Bill 109 (AB 109). The associated Propositions 47, the Safe Neighborhoods and Schools Act, and Proposition 57, Parole for Non-Violent Criminals and Juvenile Court Trial Requirements, impact the jails as well. Humboldt County's Correctional Facility (HCCF) now houses inmates serving longer sentences, incarcerated for more serious crimes, and in need of more diverse services. Those working within the corrections system face challenges supervising this new type of inmate. The Sheriff's Department, the Department of Health and Human Services (DHHS), and the Probation Department are all affected.



## **UNITED STATES COURT DECISIONS, CALIFORNIA STATE LEGISLATION, AND PROPOSITIONS**

Assembly Bill 109 (AB 109) was passed by the California legislature and signed into law by Governor Brown as a result of the United States Supreme Court 2011 decision in *Brown v. Plata*. That decision ordered California to reduce the number of inmates in its state prison system. The United States Supreme Court decided this reduction would provide improved medical and mental health care to California's prison inmates.

On the State level, the passage of Proposition 47 and Proposition 57 saw some crimes reclassified from felonies to misdemeanors. This reclassification also determined where incarceration for various crimes would be served. With the new legislation, some misdemeanors that once meant a jail sentence no longer required incarceration. Parole violators who originally served their time in state prisons, now do so in local county jails.

And, yes, the state prisons saw their numbers reduced, while the county jails saw their numbers rise. In just the first quarter of the AB 109 realignment, estimates indicated the state prison population declined by nearly 11,000. Since this first quarter, population growth in county jails has increased.

Despite success in reducing prison overcrowding, recent reforms have failed to adequately address the role of mental illness in California's criminal justice system. The number of prisoners with mental illness is on the rise and the seriousness of their psychiatric conditions is worsening.

The percentage of inmates having mental health issues in the Humboldt County Correctional Facility (HCCF) depends on to whom one speaks. Law enforcement officials and DHHS personnel offered figures ranging from 25% to 90% of the inmates in our County jail have some form of mental illness. Meeting the needs of these inmates is a critical undertaking.

However, Humboldt County faces an additional challenge to providing adequate mental health care. In 2015-2016, the County's psychiatric community found itself in conflict with DHHS, the agency in charge of public mental health services. The issues included inadequate staffing, program offerings, and intra-departmental personnel relationships. As a result of these disputes, most of the psychiatrists on staff resigned. To complicate matters, the rural nature of Humboldt County, with its corresponding lack of housing and other amenities, has made it difficult to recruit and retain replacement staff.

The lack of mental health providers willing to work for the County combined with an increasing jail population with mental health issues could not have come at a worse time.

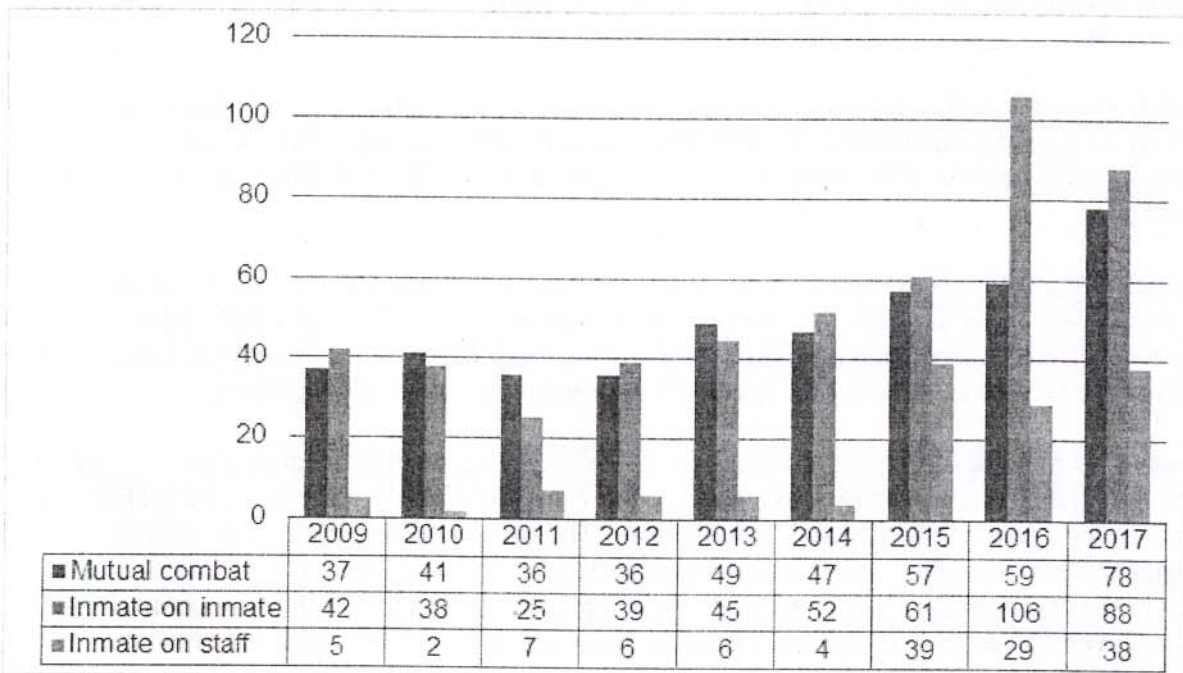
## **JAIL POPULATION: NUMBERS AND CHANGES**

The Humboldt County Correctional Facility (HCCF) has a capacity of 417 inmates. Its population includes those serving their terms in the facility, waiting for transfer to another

facility, serving parole violation, or awaiting trial and sentencing. Some inmates must be single-celled due to medical, mental, or safety reasons; these specialized cells are included in the count. Thus, the bed capacity often does not mean that 417 different individuals can be housed in the facility at the same time.

With the addition of Assembly Bill 109 (AB 109) inmates to our County jail, changes happened. Those incarcerated under the terms of AB 109 tend to have more jail experience than the typical county jail inmate. Since AB 109 inmates have been housed in HCCF, the correctional staff noted that elements of “prison culture” have surfaced. Socialization along racial lines is more pronounced as now during recreation and dining periods, inmates tend to segregate along racial lines. Gangs have appeared. Violence, another element of the prison culture, is more prevalent. Figure 1 illustrates the increase of assaults including those between inmates (mutual combat); attacks on an inmate (inmate on inmate); and inmate attacks on staff (inmate on staff). Since AB 109, instituted in late 2011, numbers in most categories have shown an increase in the number of assaults.

**Chart 1. Assaults in the Humboldt County Correctional Facility**



## STANDARDS OF MENTAL HEALTH TREATMENT IN CORRECTIONAL FACILITIES

Mental Health America (MHA), a well respected non-profit, is dedicated to protecting the rights of those living with mental illness, including those who are incarcerated. After a comprehensive statewide investigation, MHA issued its findings in *Position Statement 56: Mental Health*



*Treatment in Correctional Facilities.* The document explores the specific rights of the incarcerated mentally ill.

While there are many rights discussed in Position Statement 56, the Humboldt County Civil Grand Jury (HCCGJ) felt those listed below were within the scope of the complaint it received:

1. Right to adequate medical and mental health care
2. Right to have mental health services available 24 hours per day, and seven days per week; right to mental health staff who are competent and qualified to provide adequate treatment and supervision
3. Right to be transferred to or placed in the appropriate medical or mental health units or facilities for those who suffer from acute mental disorders and those who are actively suicidal
4. Right to confidentiality in the delivery of mental health services
5. Right to both a treatment plan and a discharge plan to integrate the inmate back into the family and community

## **MEDICAL HEALTH SERVICES**

The Department of Health and Human Services (DHHS) shares responsibility for the medical care with WellPath and mental health care with Traditions, contracted medical service corporations. In the various interviews HCCGJ conducted, a variety of comments were made about the services provided. They ranged from “medical care is adequate,” to “satisfied with staffing,” and “interactions have been very positive.” Generally speaking, the staff with whom we met felt that medical care within the jail was adequate. However, they felt the future may see increased medical and dental demands as inmates age while spending more time in local jails. As one interviewee stated, “inmates are getting older and sicker.”

*Far more people with mental illness are housed in jails and prisons than in psychiatric hospitals.*  
National Public Radio, May 4, 2018

## **MENTAL HEALTH SERVICE**

The current delivery of mental health care receives fewer positive reviews. The primary issue is about its availability. A psychiatrist only offers care between 12 and 16 hours each week in the jail. The single mental health nurse is on duty four and a half days a week for eight hours while a substitute covers another half day. The DHHS budget allows for 3.6 clinicians for the jail, but only two clinicians are currently employed there. There are vacancies in that position on a nearly continual basis. They offer their services in eight-hour shifts, five days a week. Although there has not been regular coverage on the weekends for an extended period, an interviewee recently reported that a clinician has returned to a regular shift on weekends. The mental health nurse and the psychiatrist are available only on an on-call basis on weekends.

Recruitment and retention of mental health staff is an issue within Humboldt County Correctional Facility (HCCF). One source commented that mental health staff workers are

scarce in rural communities as they tend to concentrate in metropolitan areas. A mental health clinician commented that both the limited availability of trained personnel and the complicated hiring process for replacement personnel make it difficult to maintain staff levels. Two clinicians added that improvement was needed in the recruitment process. Another staff member expressed the view that the process in Humboldt County has “many hoops to jump through” and “may take months to complete.” Interviewees felt the County may have lost some good applicants to other venues because of the length of the hiring process. Staff members suggested bringing more resources to the mental health program would make positions more attractive to applicants. Increasing the available resources to deliver care was mentioned as a positive step toward improving staffing.

Retention is an additional issue. Administrative staff cited the nature of the work in a correctional setting as a reason for retention difficulties. An interviewee said that jail inmates are not the easiest population for whom to provide mental health care. At times, inmates display negative behavior to the very people attempting to help them.

When Humboldt County’s Behavioral Health Board presented its yearly report to the Board of Supervisors in May, Chairperson Tim Ash stated, “The number of people in the jail that have mental health problems continues to grow.” He went on to say that some of the inmates are housed in solitary confinement which may cause them permanent damage. He noted also that the United Nations considers holding the mentally ill in solitary confinement a form of torture.

An editorial in the *Sacramento Bee* on February 9, 2018, asked a question many mental health practitioners and correctional personnel have asked themselves: “Why, for example, does California incarcerate so many mentally ill people?” The article continues, “County jails house many thousands of mentally ill inmates.” Many of those mentally ill inmates are confined to HCCF. They deserve better treatment.

## **THE RIGHT TO CONFIDENTIALITY IN MENTAL HEALTH CARE**

Mental health care is provided within the jail facility. A DHHS staffer stated that conventional therapy is not possible because HCCF lacks a therapeutic environment. The lack of privacy is a contributing factor. The psychiatrist, who sees from five to eight inmates daily, four days a week, usually meets with them at the cell-side due to the psychiatrist’s time constraints. Each clinician generally meets with ten to twenty inmates a day in the multiple-purpose area or in a room with windows facing it. At times, if the inmates agree, they offer counseling cell-side. These options do not meet California confidentiality standards as the entire jail community can be aware of who is being treated and, perhaps, the nature of the treatment.

## **THE RIGHT TO A TREATMENT PLAN AND A DISCHARGE PLAN**

The intake process to the jail facility depends on several factors. These include whether the individual will be booked and then released, transferred to another facility, or will be kept at HCCF. At the intake screening, the medical department nurse asks questions aimed at



determining the individual's medical health. A written instrument is used for this medical assessment. There are a few general mental health questions on this assessment. Responses from our interviewees varied when asked about a separate mental health assessment. One responded there is a written instrument for behavior assessment. It was further stated the medical nurse completed this as well as conducted a short interview. Another interviewee commented that only a visual assessment is made to determine the mental health of an inmate. Yet, a third stated that objective assessments are used only for housing assignments.

The State of California has issued the document *Minimum Standards for Local Detention Facilities*. Section 1052 of that document lists the procedures for the intake of mentally disordered inmates. It states a written plan shall be developed for identifying and referring any inmate who appears to be in need of "mental health treatment at any time during his/her incarceration." It further states:

For each inmate treated by a mental health service in a jail, the treatment staff shall develop a written treatment plan. The custody staff shall be informed of the treatment plan when necessary to ensure coordination and cooperation in the ongoing care of the inmate. This treatment plan shall include referral to treatment after release from the facility when recommended by treatment staff.

The mental health staff has developed forms that concern treatment plans. However, treatment plans are not developed for all inmates receiving mental health care in HCCF. An interviewee stated treatment plans are developed for those receiving care at Sempervirens. Informing the HCCF custodial staff of an inmate's mental state seems to be accomplished through informal conversations.

## **DISCHARGE PLANS**

Discharge planning is currently a major focus of the medical/mental health practitioners. The teams believe developing discharge plans will cut the rate of recidivism and release a healthier person. The Humboldt County Correctional Facility (HCCF), Department of Health and Human Services (DHHS), and the Community Corrections Resource Center (CCRC) are co-operating in this endeavor.

The HCCF offers a variety of educational opportunities. Inmates may take courses offered by the College of the Redwoods which are provided in the HCCF. Vocational courses such as truck driving, machinist training, as well as courses designed to finish basic education are available. Skills like résumé writing and preparation for interviews are taught. Substance abuse education and AA/NA programs are available. Local employers attend a job fair in the facility to talk with inmates about job requirements and employment opportunities.

When inmates are ready to leave the facility, many forms of assistance are available. Those taking medication receive a two weeks supply and help in scheduling future medical/mental health appointments. A program known as Crosswalk offers a "warm handoff" to the services available at the CCRC. The first year of its existence (FY 2015-2016) a counselor was placed at

the CCRC. That counselor assisted 238 offenders with various programs and support as well as enrolled 88 new referrals. The CCRC is open only Monday through Friday during regular business hours. If inmates are released outside of those business hours, they are instructed to report the next business day. Bus tickets and schedules are handed to those who request them. Unfortunately, many who have been released just disappear.

## **TRANSFER TO APPROPRIATE MENTAL HEALTH FACILITIES**

The Mental Health Standards document provides policy statements about transfers to other mental health facilities. It states:

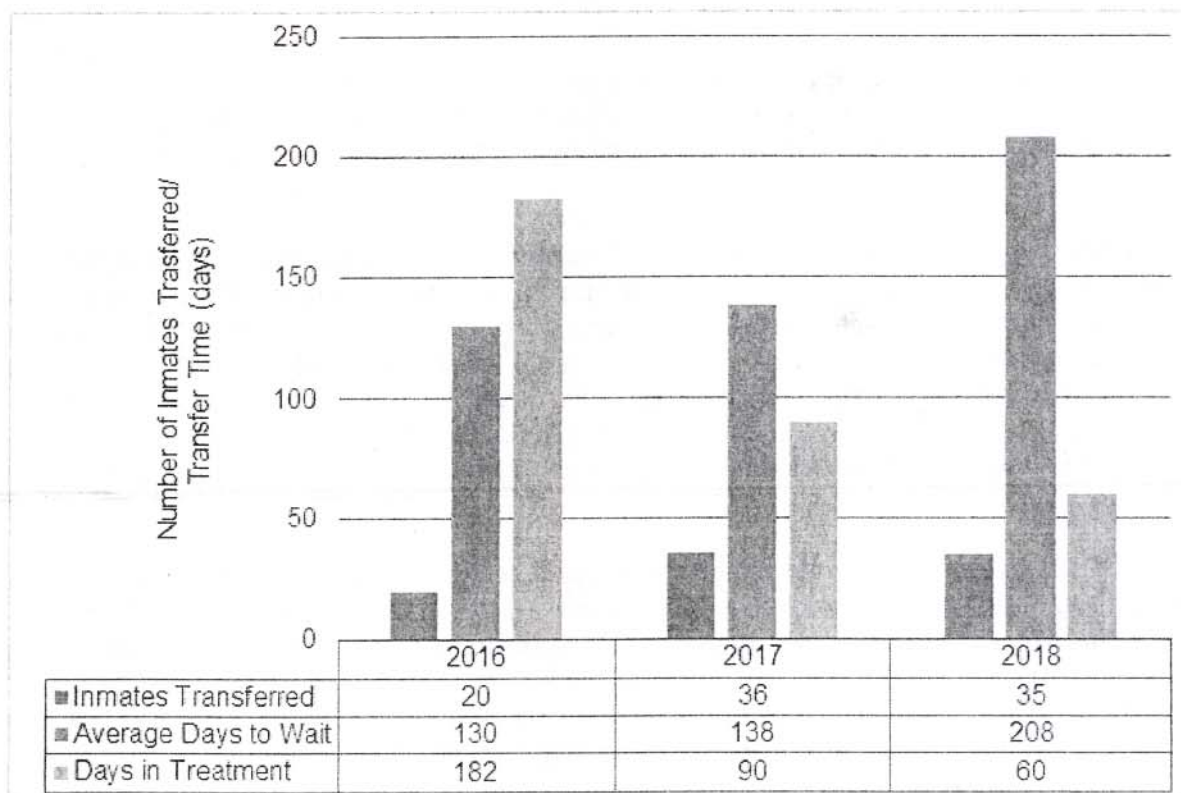
Unless the county has elected to implement the provisions of Penal Code Section 1369.1, a mentally disordered inmate who appears to be a danger to himself or others, or to be gravely disabled, shall be transferred for further evaluation to a designated Lanterman-Petris-Short treatment facility designated by the county and approved by the State Department of Mental Health for diagnosis and treatment pursuant to Penal Code Section 4011.6 or 4011.8 unless the jail contains a designated treatment facility.

The Humboldt County Board of Supervisors approved designating the Humboldt County Correctional Facility (HCCF) as a mental health treatment center as per Penal Code Section 1369.1. This allows the facility to administer psychotropic medications up to six months to an inmate awaiting transfer to a treatment facility.

Those awaiting trial in Humboldt County courtrooms undergo examination as to their competency to assist in their defense or their ability to understand the charges against them. In these cases, a judge determines whether the inmate requires mental health treatment beyond the scope of what is available locally. Napa State Hospital and the Sacramento County Jail Competency Restoration Program are the mental health facilities to which most HCCF inmates are sent for treatment. Unfortunately, this is not a quick process. Most of the inmates spend time in HCCF waiting for an opening at the appropriate facility. The wait often ranges from three to six months. There have been times in HCCF when as many as 20 inmates were awaiting transfer.



**Chart 2. Transfer Days for Additional Treatment**



With construction scheduled to begin soon on the jail's extension, the problem of transfers may be somewhat mitigated upon its completion. A six-bed competency restoration unit is included in the plans. If this facility meets the State standards, some inmates now being transferred will remain in Humboldt County for treatment.

Sempervirens (SV), Humboldt County's own small mental health hospital, provides mental health care for the entire Humboldt County population. Currently, if an inmate suffers a critical mental health incident, local care may be available at SV. Inmates may be transferred to the short-stay, 4-bed Critical Care Unit or to the 16-bed main facility if there is a bed available. Transfers of this type do not occur often as all local law enforcement agencies utilize the inpatient services SV provides. Additionally, if an inmate has a criminal procedure pending, the inmate will not be transferred to SV, but treated instead by mental health clinicians in the jail or sent to a local hospital emergency room.

Another roadblock to admitting inmates to SV is the level of security at that institution. In interviews, the HCCGJ heard varying accounts of the inmate transfer process. Some interviewees stated inmates can be transferred and left in a hallway without supervision to await admittance to SV. Other interviewees reported the corrections officer remains with the inmate until SV personnel accepts the patient. It was noted several mental health workers voiced they felt safer at the Humboldt County Correctional Facility than at Sempervirens.

## OTHER CONCERNS

The original complaint raised several other issues about inmate mental health care. The Humboldt County Civil Grand Jury (HCCGJ) felt the procedures for 5150 commitment, administration of psychotropic medications, and changes of treatment decisions should be examined.

The Welfare and Institutions Code 5150 defines the circumstances and provisions of involuntary commitment to a mental health facility. For individuals to be detained on a 5150 hold, they must be deemed a danger to themselves or others or be gravely disabled due to signs of mental illness. If any of these conditions exist, the person will be placed in an appropriate facility. Upon commitment, the person must be given three important pieces of information: told they are not under arrest; given the name of the individual making the commitment; and provided the name of the facility to which they are being taken. The mental facility staff will inform them of their patient rights.

The HCCGJ included questions about the 5150 process in many of its interviews. The original complainant noted that the Mental Health Task Force was to codify this process for Humboldt County. In 2015, the Humboldt County Department of Health and Human Services (DHHS) published *Mental Health 5150 Manual*. Based on the *Los Angeles County Department of Mental Health LPS Manual*, it provides guidelines and information about the legal aspects of the 5150 process as it should be completed. It also lists who may designate a 5150 hold.

However, developing the manual is only a part of the process of legally fulfilling the 5150 process. A DHHS administrator commented that Humboldt County's implementation of 5150 is less than perfect. More serious statements were voiced by both current and former employees. These individuals felt that the 5150 provision is not being used as intended and provides an "easy out" for law enforcement. Employees commented that DHHS Mental Health administration "looks the other way" at possible violations.

There were differing views about how individuals being detained on a 5150 hold should be treated. One DHHS administrator was unaware that an individual declared 5150 could be admitted to the jail. Another said police rarely seek advice from SV staff or physicians concerning 5150s and the police needed more training on that subject. The difficulty recognizing the difference between drug-induced behavior and a true mental health episode creates issues concerning 5150 certifications. The most common way for HCCF staff to identify the difference is observing the duration of the behavior. Several law enforcement officers and mental health staff commented that those demonstrating outward signs of mental illness should be evaluated in local emergency rooms. Others stated that the testing should be done by a certified psychiatrist able to order blood testing and medications. If it is determined that a 5150 declaration is appropriate, the person should be transferred to SV.



## **RELATIONSHIPS AMONG THOSE DELIVERING MENTAL HEALTH CARE**

Another issue in the complaint had to do with the relationship between mental health staff and physicians. The HCCGJ asked a variety of interviewees if this complaint had merit. Members of the medical staff agreed that the complaint was valid. One stated that once the psychiatrists have issued an order, be it for medications or care, it must be followed. Even if other mental health staff disagree with the psychiatrist's orders, they do not have the authority to change them. Both the County and the psychiatrists whose names are on the order have legal liability when it is not carried out by clinical staff. Former employees stated that it had been common for some mental health supervising clinicians to override a physician's order. A current employee commented that at times, clinicians practice beyond their scope of authority.

## **DELIVERY OF PSYCHOTROPIC MEDICATIONS**

The complainant commented that psychotropic medications were being administered involuntarily to inmates. After investigating this claim the Humboldt County Civil Grand Jury (HCCGJ) learned that *Riese Hearings* for inmates classified as 5150 are conducted to determine if such medications should be administered. The Public Defender's Office, which represents inmates in this process, confirmed that they have participated in these hearings.

*The Minimum Standards for Local Detention Facilities* establishes policies concerning the use of psychotropic medications in California. Each county was directed to develop written policy and procedures for the usage of such medications. The Standards, however, allow psychotropic medication to be administered in an emergency to an unwilling patient.

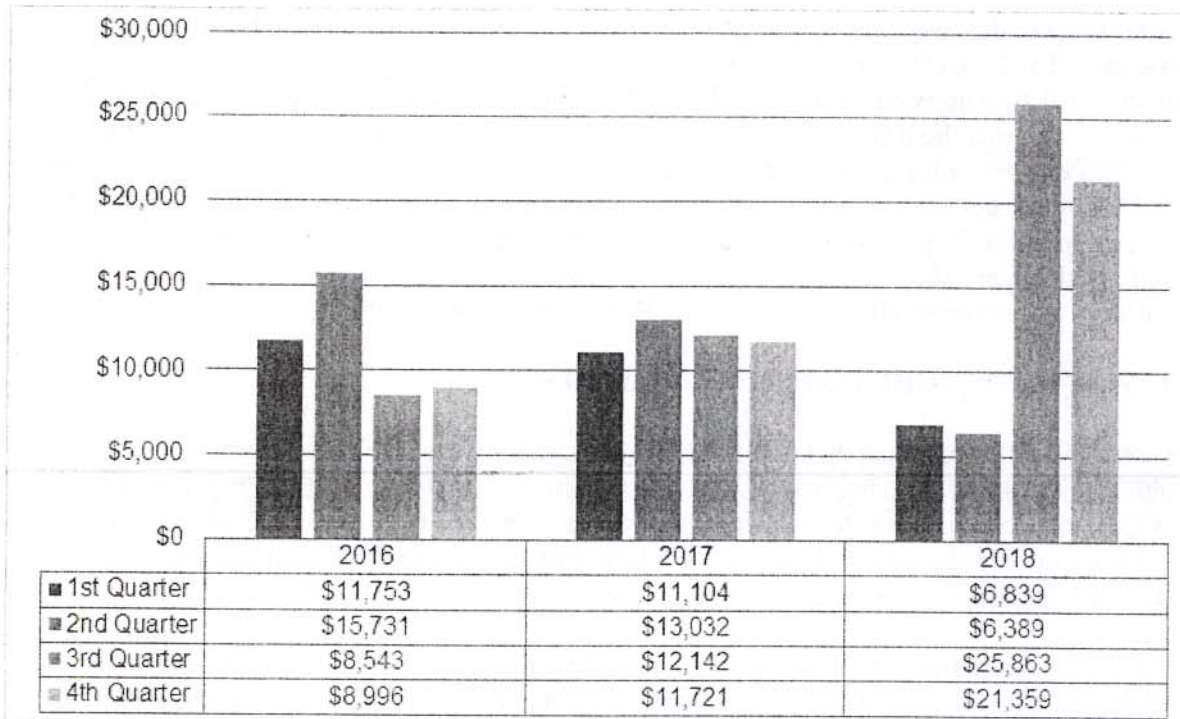
The Standards continue with procedures for the voluntary administration of psychotropic medications, one of the tools used to treat mentally ill inmates. Before the drugs may be administered, the inmate must give his/her informed consent. A plan must be developed that limits the length of time voluntary psychotropic medication may be administered. Ways to monitor and re-evaluate all inmates receiving those medications must be formulated. The Standards also states, "The administration of psychotropic medication is not allowed for disciplinary reasons."

Data from the Board of State and Community Corrections gathered on 45 counties across the state indicates that between 2012 and 2017, the portion of the jail population taking psychotropic medications rose by 25%.

As the number of inmates rises so does the costs of medication. Of the 45 counties, 41 reported combined expenditures of nearly \$8.5 million on psychotropic drugs in 2016.

One of the HCCGJ interviewees mentioned that "treatment by medication" is a standard practice in HCCF. This would seem to be borne out by the expenditures made to purchase those types of medications in the County. Psychotropic medication costs have risen dramatically in the last two quarters of 2018 as Figure 3 shows.

**Chart 3. Psychotropic Drug Expenses - Humboldt County Correctional Facility (in dollars)**



Adherence to 5150 protocols, as well as the sanctity of treatment orders are vital issues in delivering adequate and legal mental health care to Humboldt County residents. The Humboldt County Civil Grand Jury's (HCCGJ) evidence of problems in these two areas was offered by employees in protected interviews.

Many of the inmates who are serving time in Humboldt County Correctional Facility (HCCF) have mental illness and serve lengthy terms. They are, so to speak, a captive audience. If the facility had sufficient staff and improved resources to provide viable mental health care, those who are released could live more productive lives.

## **FINDINGS**

**F1.** The Humboldt County Civil Grand Jury acknowledges the hard work and dedication of the staff providing mental health care within the Humboldt County Correctional Facility given their limited resources.

**F2.** There is a lack of mental health providers willing to work for the County Department of Health and Human Services.



**F3.** Humboldt County Correctional Facility staff are hindered in their tasks by the inability of the Department of Health and Human Services to recruit and retain permanent clinical staff.

**F4.** The amount of time the Psychiatrist provides direct patient care to inmates per week is inadequate.

**F5.** The amount of time mental health clinicians are available in the Humboldt County Correctional Facility is insufficient.

**F6.** Department of Health and Human Services and Humboldt County Correctional Facility mental health staff are negatively impacted by a lack of dedicated therapeutic environments and counseling to provide care as required by law.

**F7.** There is a lack of direction to clinical staff about who has the legal authority to prescribe treatment orders for inmates in need of mental health treatment.

**F8.** The lack of written policies and procedures concerning the care of mentally ill inmates at Humboldt County Correctional Facility inhibits the ability to provide quality mental health care.

**F9.** Difficulty in differentiating between drug induced behavior and mental health issues can lead to treatment errors.

**F10.** There is a lack of agreement of the roles and responsibilities between the Patient's Rights Advocate and the Department of Health and Human Services Mental Health Administration.

**F11.** There are few long-term mental health plans in place for dealing with inmates serving extended sentences.

**F12.** The inmate mental health transition plan for ongoing care after discharge from the Humboldt County Correctional Facility is incomplete.

**F13.** The legal 5150 implementation in both the Humboldt County Correctional Facility and Sempervirens is at times in dispute amongst Department of Health and Human Services staff and local law enforcement agencies.

**F14.** There is a lack of sufficient Department of Health and Human Services administrative involvement in the treatment and care of mentally ill inmates in Humboldt County Correctional Facility.

## **RECOMMENDATIONS**

**R1.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services develop a more comprehensive, modern, aggressive, and nationwide recruitment and

hiring plan for permanent psychiatrists, nurse practitioners, and clinicians who focus on the mentally ill population in the Humboldt County Correctional Facility. This action should be completed by January 15, 2020. (F2, F3, F4, F5)

**R2.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services have a psychiatrist assigned to the Humboldt County Correctional Facility 40 hours per week. This action should be completed by January 15, 2020. (F4)

**R3.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services seek funding to provide physical space and professionals for specialized clinics, substance abuse programs, and increased therapeutic counseling inside the Humboldt County Correctional Facility. This action should be completed by January 15, 2020. (F6)

**R4.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services Director of Mental Health Services shall ensure that written policies and procedures regarding the care of mentally ill inmates in the Humboldt County Correctional Facility be developed and distributed with appropriate training to all staff. This action should be completed by October 1, 2019. (F8)

**R5.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services ensure that all treatment orders are followed and carried out as prescribed by legally authorized personnel and that those policies and procedures recommended in **R4** are current and follow the State law to limit the County's legal liability. This action should be completed by October 1, 2019. (F7)

**R6.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services provide additional training to law enforcement and correctional staff to better identify the differences between drug induced and mental health issues. This action should be completed by October 1, 2019. (F9, F13)

**R7.** The Humboldt County Civil Grand Jury recommends that Department of Health and Human Services write and implement policies and procedures regarding legally defined rights of mentally ill inmates. This action should be completed by October 1, 2019. (F10)

**R8.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services implement the new California Department of State Hospitals Diversion Program as it applies to Assembly Bill 1810 and the mentally ill. This action should be completed by January 15, 2020. (F11)

**R9.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services complete and implement the mental health transition plan that is currently being developed for after inmate release. This action should be completed by October 1, 2019. (F12)

**R10.** The Humboldt County Civil Grand Jury recommends the legalities of the 5150 protocols and processes be reviewed and studied by all local law enforcement agencies in the County. This action should be completed by October 1, 2019. (F13)



**R11.** The Humboldt County Civil Grand Jury recommends the Department of Health and Human Services and the Humboldt County Correctional Facility improve the implementation of the 5150 process by requiring and providing specific training to all local law enforcement agencies and the Humboldt County Correctional Facility staff to ensure compliance with the law. This action should be completed by January 15, 2020. (F13)

**R12.** The Humboldt County Civil Grand Jury recommends Department of Health and Human Services make mental health services within the Humboldt County Correctional Facility a higher priority. This action should be completed by October 1, 2019 (F14)

### **REQUEST FOR RESPONSES**

Pursuant to Penal Code Section 933.05, the Humboldt County Civil Grand Jury requests responses as follows:

The Humboldt County Board of Supervisors (F2-F14)

Director of the Department of Health and Human Services - (F2, R1) (F3, R1) (F4, R1,R2) (F5, R1) (F6, R3) (F7, R5) (F8, R4) (F9, R6) (F10, R7) (F11, R8) (F12, R9,) (F13, R10, R11) (F14, R12)

Department of Health and Human Services - Director of Mental Health - (F2, R1) (F3, R1) (F4, R1,R2) (F5, R1) (F6, R3) (F7, R5) (F8, R4) (F9, R6) (F10, R9) (F11, R8) (F12, R9) (F13, R10, R11) (F14, R12)

Humboldt County Sheriff (F6, R3) (F9, R6) (F13, R10, R11)

### **INVITED RESPONSES**

Chief of Police for the following agencies:

Eureka Police Department (F9, R6) (F13, R10, R11)

Arcata Police Department (F9, R6) (F13, R10, R11)

Fortuna Police Department (F9, R6) (F13, R10, R11)

Ferndale Police Department (F9, R6) (F13, R10, R11)

Rio Dell Police Department (F9, R6) (F13, R10, R11)

Hoop Valley Tribal Police Department (F9, R6) (F13, R10, R11)

Reports issued by the 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 Grand Jury. This report was issued by the 2018-2019 Humboldt County Civil Grand Jury with the exception of a juror formerly employed by one of the agencies mentioned in the report and a juror related to an employee of one of the referenced agencies. These Grand Jurors were excluded from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

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California Penal Code - PEN 1369.1  
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