



A Tradition of Stewardship
A Commitment to Service

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Clerk of the Napa Superior Court
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Diane Dillon
Chair

June 29, 2010

The Honorable Stephen T. Kroyer
Presiding Judge
Superior Court of California, County of Napa
825 Brown Street
Napa, CA 94559

Dear Judge Kroyer:

As required by Penal Code Section 933(c), enclosed is the response to the 2009-2010 Final Reports on the Napa County Department of Health and Human Services *Involuntary Mental Health Evaluations* and the American Recovery and Reinvestment Act of 2009 *Funds Awarded to Napa County*.

Grand Jury activity takes place over the course of a number of months. As such, their findings and recommendations often address issues which county departments have already identified as problems and to which solutions are in the process of being developed.

The Board acknowledges the members of the 2009-2010 Grand Jury for the time they have devoted in preparing their report.

Sincerely,

Handwritten signature of Diane Dillon in cursive.

Diane Dillon, Chair
Napa County Board of Supervisors

Enclosure

cc: Foreman, 2009-2010 Grand Jury

Brad Wagenknecht
District 1

Mark Luce
District 2

Diane Dillon
District 3

Bill Dodd
District 4

Keith Caldwell
District 5

**NAPA COUNTY
RESPONSE TO THE GRAND JURY REPORT
FISCAL YEAR 2009-10**

**NAPA COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES
Involuntary Mental Health Examinations**

FINDING 1: No BOS or HHS documents relating to identification of facilities subsequent to 1996 were located. The list of facilities currently in use does not correspond to BOS actions in documents reviewed.

Response, Director of Health and Human Services: We agree partially with the finding. All but one of the facilities currently in regular use by HHS for the placement of persons involuntarily detained pursuant to Section 5150 of the Welfare and Institutions Code are among the dozen or more such facilities designated by the Board of Supervisors in the various actions referred to by the Grand Jury in its report. HHS subsequently began making occasional use of Napa State Hospital for this purpose but failed to request formal designation by the Board of Supervisors.

FINDING 2: There is no documentation of BOS actions designating Napa County personnel having authority to administer a 5150 hold, although such action was mandated by the LPS Act.

Response, Director of Health and Human Services: We agree partially with the finding. It is correct that HHS has never requested formal action by the Board of Supervisors to designate personnel with this authority. There do exist a number of policies and procedures duly accepted within HHS relating to the operation of the overall program within which 5150 holds are administered. From these, it is readily apparent that the Crisis Response Unit within the Mental Health Division of HHS was assigned responsibility for administration of 5150 holds on behalf of the County. There are many state mandates that are carried out administratively at the department level without formal board action, however, HHS defers to the Grand Jury's interpretation of Section 5150 and accepts its recommendation that the statute be implemented by the formal adoption of a resolution by the Board of Supervisors.

FINDING 3: ERP is a memorandum of understanding among the involved agencies and is not an adopted official policy of the participating government agencies or health care facilities.

Response, Director of Health and Human Services: We agree with the finding. The document was developed at the service unit level to improve coordination and facilitate training among various public and private agencies with separate responsibilities as regards the 5150 process. Involvement in the 5150 process is mandatory for some agencies and voluntary for others. Participation in the ERP is voluntary for all agencies.

FINDING 4: Among members of the ESORC, as well as other staff members of HHS Mental Health Department, there is an inconsistent understanding of the ERP and the roles of participating staff and organizations.

Response, Director of Health and Human Services: We agree with the finding. The ERP was developed to address the inconsistent understanding of the overall 5150 process among the various affected agencies. The ERP is a "living document" that has been revisited and revised from time to time to address both new and ongoing issues and it is accurate to conclude that additional work is necessary.

FINDING 5: Meetings of all participating County staff involved in the administration of the WIC Section 5150-5157 are held on an ad hoc basis.

Response, Director of Health and Human Services: We agree with the finding. It is true that meetings involving all such staff are extremely rare, due in part to the fact that the Crisis Response Unit is a 24 hour service. It would be inaccurate to say that staff do not meet or that they are not provided with training or supervision. However, HHS agrees that increased coordination and training among affected staff will improve the service.

FINDING 6: There is no current signed contract between the County and NSH to receive individuals referred for a 5150 hold. The FY 2008-09 contract was signed by the County on February 23, 2010 and is awaiting State signature; the FY 2009-2010 contract has not been received from the State, consequently services and payment are taking place under a "term sheet" and without an approved contract.

Response, Director of Health and Human Services: We agree partially with this finding. The State executed the contract for FY 2008-2009 on April 15, 2010, and has since returned an executed counterpart to HHS. The primary risk of the delay in contracting would appear to be to the State's ability to collect payments, rather than the County's ability to obtain this necessary service.

FINDING 7: Although the City of Napa has 75 percent of the County's population, it utilizes 87 percent of the County's mental health service.

Response, Director of Health and Human Services: See response to Recommendation 8.

FINDING 8: The ESORC does not include any Calistoga or St. Helena public safety members or St. Helena staff members.

Response, Director of Health and Human Services: We agree with the finding. The ESORC grew out of several informal meetings in 2005 involving representatives of HHS, Queen of the Valley Hospital, the Napa Police Department, the Napa County Sheriff's Department, and the District Attorney's Office. The discussion was originally focused on operational issues relating to the specific agencies at the table. The scope gradually broadened to encompass the 5150 process across the County.

FINDING 9: HHS policies and procedures the Grand Jury reviewed are not consistently numbered nor is there a document history showing that annual reviews have been performed according to HHS policy. One policy dates from 2000 without evidence of review or updating.

Response, Director of Health and Human Services: See response to Recommendation 9.

FINDING 10: HHS Involuntary Detention Data for fiscal years 2005-2006 and 2006-2007 reported to DMH does not correspond to internal data for these involuntary detentions.

Response, Director of Health and Human Services: See response to Recommendation 10.

FINDING 11: HHS has prepared a "Treatment Team" protocol to enhance coordination and delivery of mental [health] services.

Response, Director of Health and Human Services: We agree with this finding. HHSA has committed to a pilot project that will create a treatment team to share responsibility for the coordination and provision of care to an assigned group of clients. Planning is underway and the team should begin formal service this fall. Policies and procedures for the functioning of the team are currently in development and will comprise the "protocol" for the team's operation.

RECOMMENDATION 1: The BOS update and issue the list of County personnel authorized to sign a 5150 hold.

Response, Director of Health and Human Services: HHSA agrees with the Grand Jury's recommendation. The recommendation has not yet been implemented, but will be in the future.

HHSA will prepare a resolution for submission to the Board of Supervisors setting forth the professional classifications within the Mental Health Division authorized to initiate a "hold" under Section 5150 of the Welfare and Institutions Code. HHSA intends to submit the resolution to the Board for approval by September 30, 2010.

Response Napa County Board of Supervisors: The BOS concurs with the response of the Director of Health and Human Services.

RECOMMENDATION 2: The BOS establish a procedure which requires periodic review and update of the list of County personnel authorized to issue a 5150 hold.

Response, Director of Health and Human Services: HHSA agrees in part and disagrees in part with this recommendation. To the extent HHSA agrees with this recommendation, it has not yet been implemented but will be in the future.

HHSA agrees with the recommendation that a policy and procedure be adopted to govern the designation of employees authorized to initiate holds under Section 5150 of the Welfare and Institutions

Code. However, such a policy, like other policies governing the general administration of the agency and its mental health programs, should be promulgated by the Mental Health Director with the approval of the HHSA Director. The designation procedure will be integrated into HHSA's professional credentialing system, which verifies and tracks the currency of the licenses and certifications held by agency staff. The policy and procedure should be adopted and implemented by October 31, 2010.

Response Napa County Board of Supervisors: The BOS concurs with the response of the Director of Health and Human Services.

RECOMMENDATION 3: The BOS update and issue the list of agencies authorized to perform a 5150 psychiatric evaluation.

Response, Director of Mental Health and Director of Health and Human Services: HHSA agrees with the Grand Jury's recommendation. The recommendation has not yet been implemented, but will be in the future.

As set forth in the Grand Jury's report, between 1978 and 1996, HHSA requested, and the Board of Supervisors granted, approval for a number of acute psychiatric hospitals to be designated as facilities to administer, evaluate, and treat persons being held under Section 5150. Subsequent to 1996, HHSA began to occasionally utilize Napa State Hospital for this purpose and the report correctly notes that the hospital was not submitted to the Board of Supervisors for inclusion on the list of designated facilities. HHSA intends to submit to the Board of Supervisors a resolution to update the list to reflect the addition of this facility by August 31, 2010.¹

Response Napa County Board of Supervisors: The BOS concurs with the response of the Director of Mental Health and Director of Health and Human Services.

RECOMMENDATION 4: The BOS establish a procedure which requires periodic review and update of the list of agencies authorized to perform a 5150 psychiatric evaluation.

Response, Director of Health and Human Services: HHSA agrees in part and disagrees in part with this recommendation. To the extent HHSA agrees with this recommendation, it has not yet been implemented but will be in the future.

HHSA agrees with the recommendation that a policy and procedure be adopted to govern the designation of acute psychiatric facilities to administer, evaluate, and treat persons being held under Section 5150. However, such a policy, like other policies governing the general administration of the

¹ It should be noted that it is not possible for a smaller jurisdiction such as Napa County to anticipate all future placement needs on a timeline ensuring that receiving facilities consistently receive prior Board designation. It occasionally happens that designated facilities have no available space or refuse to accept a referral due to the specifics of the case. In those situations, HHSA must search for an appropriate facility and effect immediate placement without the delay that prior Board approval would require. This extends to both the designation of the provider and approval of a contract for service. The Board has adopted a written protocol defining the circumstances under which HHSA is authorized to engage a provider of urgent mental health services without prior Board approval.

agency and its mental health services, should be promulgated by the Mental Health Director with the approval of the HHS Director. The policy will, of course, provide for the actual designation to occur by action of the Board of Supervisors. The policy and procedure should be adopted and implemented by October 31, 2010.

Response Napa County Board of Supervisors: The BOS concurs with the response of the Director of Health and Human Services.

RECOMMENDATION 5: HHS adopt the Mental Health Director's protocol for a "Treatment Team" approach to coordinate delivery of mental health services to its clients, including those who are evaluated as 5150 candidates for further evaluation and treatment.

Response, Director of Health and Human Services: HHS agrees with the Grand Jury's recommendation. The recommendation has not yet been implemented, but will be in the future.

HHS has been enthusiastically supportive of this initiative from its inception. The pilot program has been endorsed by agency administration in planning meetings. Planning activities have been underway for several months and staff is currently working to develop clear, instructional guidelines to address the treatment planning conference structure and documentation requirements. To the extent further action is necessary to "adopt the Mental Health Director's protocol," it is anticipated that policies and procedures will be developed by the Mental Health Director to govern the day-to-day operations of the pilot and that the agency Director will indeed approve them. Actual implementation of the new team model in an outpatient setting is expected to commence in September, 2010.

RECOMMENDATION 6: The BOS execute contracts or other appropriate agreements with agencies designated to perform 5150 psychiatric evaluations.

Response, Chairperson, Emergency Response Oversight Review Committee and Director of Health and Human Services: HHS agrees with the Grand Jury's recommendation. The recommendation has been implemented in the case of all agencies utilized for this purpose other than Napa State Hospital. The recommendation as it regards Napa State Hospital will be implemented in the future, assuming the State of California eventually completes its current round of contract development.

County contracts currently exist with the several facilities where individuals held under Section 5150 are normally referred for evaluation and treatment, with the exception of Napa State Hospital. With this exception, this recommendation is generally met on an ongoing basis in the normal course of business.

The State of California is consistently late in processing contracts for services in its mental hospitals. Like virtually all counties in the State, Napa County contracts with the State for services at both the acute and skilled nursing levels of care. The Mental Health Director contacts the State Department of Mental Health regularly to track the status of Napa County's contract. The contract is processed promptly upon its receipt from the state. The contract for the fiscal year 2008-2009, which ended on June 30, 2009, was not executed by the State and returned to Napa County until April 15, 2010. Representatives of the Department of Mental Health report that the Contract for 2009-2010 is still being processed in their department and declined to offer a timeline on when it will be forwarded to Napa County for processing and approval – which must occur before the State will finally sign it themselves.

HHSA does not make a large number of 5150 referrals to Napa State Hospital. However, for some individuals, the hospital's services are significantly better suited to meet the individuals' needs than any alternative facility. While HHSA would prefer to have the contract in place prior to referring any client, assuring the safety and wellbeing of certain clients occasionally makes it necessary to refer notwithstanding the State's slow contract process.

Response Napa County Board of Supervisors: The BOS concurs with the response of the Emergency Response Oversight Review Committee and the Director of Health and Human Services.

RECOMMENDATION 7: The BOS review the ERP and adopt it as a formal policy for the implementation of WIC Section 5150 in Napa County.

Response, Director of Mental Health and Director of Health and Human Services: HHSA disagrees with the Grand Jury's recommendation. The recommendation will not be implemented because it is not reasonable.

HHSA agrees with Recommendations 1 and 3, which represent the extent to which Section 5150 expressly requires the direct involvement of the Board of Supervisors in the involuntary detention process. Beyond that, like most of the approximately 100 programs operated by HHSA, the agency is responsible to the Board for the planning, administration, and ongoing operation of the Emergency Response service.

The purpose of the Emergency Response Protocol (ERP) is to clarify the existing roles and responsibilities of agencies interested in the 5150 process and establish a framework for increased collaboration in connection with emergency mental health services. The ERP is technically what is referred to as a "protocol Memorandum of Understanding," which refers to documents that do not create any new obligation or undertakings on the part of any participant, and instead only serve to coordinate or memorialize existing obligations. The ERP process is intended to be responsive to operational "issues on the ground." It is intended to encourage the development of creative solutions by the people directly engaged in the provision of services – hence its regular updating since it was initiated in 2005.

Many of the agencies involved in the ERP process are neither county departments nor even governmental agencies. Board "adoption" of the ERP to implement Section 5150 could have the effect of conferring authority over the County's delivery of mandatory and extremely sensitive mental health services on the various governmental and non-governmental organizations currently collaborating under the ERP. Similarly, the Board of Supervisors does not have authority over those organizations and would hence lack the ability to enforce the ERP if it were adopted by the Board.

HHSA does strongly endorse the ERP as a means of strengthening the voluntary collaboration, coordination, and communication among the various agencies affected by the 5150 process in Napa County. Once actions have been taken to respond to the various recommendations of the Grand Jury relating to the designation of 5150 personnel and facilities, HHSA will be proposing to the other agencies revisions to the protocol to reflect these actions.

Response Napa County Board of Supervisors: The BOS concurs with the response of the Director of Mental Health and the Director of Health and Human Services.

RECOMMENDATION 8: HHS establish satellite Centers to provide better access to services in the up valley communities and in American Canyon.

Response, Director of Mental Health and Director of Health and Human Services: HHSA agrees in part and disagrees in part with this recommendation. Some actions have been taken which further this recommendation; other actions have not been taken but will be in the future.

This recommendation is unclear. If it is a recommendation that HHSA establish branch offices in up-valley communities and in American Canyon for the specific purpose of conducting crisis mental health services, including the determination of holds under Section 5150, it is impracticable to undertake such an expansion of the mental health system at the present time. As the result of the State budget crisis, funding for county mental health services has been reduced and further reductions appear likely. Unlike most neighboring counties, the County of Napa Board of Supervisors has succeeded in maintaining a steady level of county funding for these services through the financial downturn, however, it is unlikely that the County could increase funding at this time.

Maintaining a 24 hour response capability at HHSA's campus in the City of Napa is a huge commitment of resources, given the number of crisis service units provided each year. The creation of other crisis response centers would further increase this disparity between staffing and service volumes and would require additional cuts to other mental health services beyond those resulting from reductions in State funding.

The Mental Health Division has been working to develop "mobile response" capability that would allow mental health staff to respond to more calls in the community – that is, at people's homes, at hospital emergency rooms, and at other locations – rather than requiring people to come to the agency's facilities. It is intended that this service will extend to responses at locations up-valley and in American Canyon, sparing both the individuals and local law enforcement the inconvenience, expense, and in some cases emotional impact of travel to our campus.

This recommendation may instead relate to the Grand Jury's observation in its report that only 75% of the County's population resides in the City of Napa, while Napa Residents utilize 87% of the mental health services provided by HHSA. The geographic availability of services is almost certainly one factor contributing to this disparity².

For the past several years, HHSA has been working to make its services more accessible to persons living outside the City of Napa. With approximately 100 separate programs, it is not possible to establish formal, dedicated branch locations for each of them, however, the agency has so far partnered with community based organizations in Calistoga, St. Helena, and American Canyon to make some services available through "co-location." This involves agency staff being physically present at another agency's offices on an established schedule to either provide services or link persons with services. Mental health services are among those being offered through these co-location arrangements. Negotiations are also underway between Napa County and the City of American Canyon for the County to lease space within the American Canyon City Hall for the creation of a small HHSA branch office. It is currently

² A second factor is the concentration of individuals utilizing mental health services in the City of Napa due to the location of many residential and supportive services there.

anticipated that the branch office will open this fall and that the Mental Health Division will offer limited follow-up and support services there on a part-time basis.

RECOMMENDATION 9: HHS implement a procedure whereby all policies and procedures are numbered and their review and revision history becomes an integral part of the policy or procedure.

Response, Director of Mental Health and Director of Health and Human Services: HHSA agrees with the Grand Jury's recommendation to the extent it has not already occurred. The recommendation requires further analysis to determine if additional measures will be required to ensure full implementation.

The Mental Health Division has a formally adopted policy and procedure in place that provides for the adoption, numbering, and tracking of policies and procedures.

However, the findings and recommendation do raise subsidiary issues relating to the development of certain unit-specific program manuals which were intended to supplant policies and procedures but did not expressly provide for their repeal; and the administration of these manuals, which can function in the same manner as policies and procedures and may also require a procedure for formal tracking and, when appropriate, retirement.

The Mental Health Division's Policy Committee will be asked to review known unit-based manuals and see to their repeal or formal integration into the Division's policy and procedures system. This review will be completed and the results reported to the HHSA Director by December 31, 2010.

HHSA's current policy and procedure governing the administration of policies and procedures requires each division to maintain a numbering system for the cataloging of its policies and procedures; and the inclusion of a review and revision history at the end of each policy and procedure. That policy for the administration of P&P became effective in March, 2009.

HHSA will review the current status of policies and procedures across the agency and make any necessary changes in systems to ensure that they are being appropriately cataloged, designated, and tracked as required under current guidelines. The review will also assess the question of whether older policies and procedures are coming within the new system through the requirement that all policies and procedures be reviewed and re-adopted every two years. This review will be completed and the results reported to the HHSA Director by December 31, 2010.

RECOMMENDATION 10: HHS modify the reporting of involuntary detentions statistics to Department of Mental Health to ensure these data accurately reflect the 5150 holds administered by the County.

Response, Director of Mental Health and Director of Health and Human Services: HHSA agrees in part and disagrees in part with this recommendation. Some actions have been taken which further this recommendation; other actions have not been taken but will be in the future.

HHSA is unable to directly implement this recommendation because it involves State systems that are outside the control of Napa County.

The data being collected by the Mental Health Division for its own analysis and use are different than the data required to be submitted local mental health facilities to the State Department of Mental Health. In addition, Napa County does not have control over the criteria for data submitted to the State or the manner in which those data are utilized and reported by the State.

This situation is further muddied by the fact that the State changed the types of facilities that were required to report information to the Department of Mental Health. It is suspected that this change resulted in a change in the utilization reported by the State.

The Mental Health Division will endeavor to confer with officials at the State Department of Mental Health to confirm the application of State guidelines to information being reported by mental health facilities in Napa County. Division staff will contact these local facilities to relay any guidance provided by the State. The Division will endeavor to complete this process by December 31, 2010, however, its ability to do so is dependent on the ability of the Department of Mental Health to respond.

HHSa has the need to collect and maintain data relating to the 5150 process that is different than the data being collected through the State system. This includes the need for more detailed data, including information on cases which may not have resulted in hospitalization, to allow for better analysis of trends and the effectiveness of services being provided by the Emergency Response Unit. HHSa will endeavor to more clearly distinguish this data collection effort from its activities in connection with the State mandated data collection process.