

Response to 2023 Grand Jury Responses

County Executive Office

A Death in Custody – Lessons Learned

Every Death in Custody is a Failure

A Vicious Cycle - Incarceration of the Severely Mentally Ill

Death on Electronic Monitored Home Release



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COUNTY
one
FUTURE

Introduction

- The 2022-2023 Santa Barbara County Grand Jury distributed four reports entitled "A Death in Custody – Lessons Learned," "Every Death in Custody is a Failure," "A Vicious Cycle - Incarceration of the Severely Mentally Ill," and "Death on Electronic Monitored Home Release."
- The reports focused mainly on Public Safety and Health and Human Services departments
- The Board of Supervisors is required to respond to the Grand Jury reports in writing, with the responses being sent to the Presiding Judge of the Superior Court



A Death in Custody – Lessons Learned

Finding 1

Under the existing agreement between the County and Wellpath, Santa Barbara County does not provide mental health professional care onsite in the Jails from 11 p.m. to 7 a.m.

The Board of Supervisors agrees.

Recommendation 1

That by the end of the second quarter of FY 2023-24, Santa Barbara County amend the existing agreement between the County and Wellpath to provide Jail inmates, in both the north and south facilities, with overnight (24/7) mental health professional onsite services.

The Department of Behavioral Wellness recently developed a pilot program to station a mobile crisis team at the jails during the overnight hours to assist with intakes and providing de-escalation and stabilization services in conjunction with Wellpath medical staff. An analysis showed the mobile teams received an average of one call or less per night requiring response in the community, which will provide the ability to be available at the jails during the majority of the overnight hours. The Sheriff's Office and Department of Behavioral Wellness anticipate developing policies and procedures, identifying facility needs, and co-locating the staff in the jails by January 2024. Thus, **this recommendation will not be implemented because it is not warranted.**

Finding 2

Wellpath medical staff do not receive advanced training on mental health crisis intervention, which can be critical in circumstances when mental health staff are not on duty or not otherwise available and is required under a federal court order.

As per the Wellpath contractual agreement, Wellpath provides all staff with mental health-specific training at hire and annually after that, including suicide prevention and risk reduction. The Sheriff has indicated that Wellpath is open to incorporating additional trainings in line with the Grand Jury's focus on this issue. **The Board of Supervisors disagrees partially** in that there is not currently a federal court order requiring advanced mental health crisis training, commonly referred to as Crisis Intervention Training (CIT), a 40-hour training course.

Recommendation 2a

That by the end of the first quarter of 2023-24, Santa Barbara County amend the existing agreement between the County and Wellpath (or its successor) to provide all medical staff with advanced 40-hour mental health crisis response training.

The current contract agreement does not require modification to accomplish this recommendation as the existing contract provisions allow Wellpath to be trained by both the Sheriff's Office and the Probation Department. **This recommendation will not be implemented because it is not warranted.**

Recommendation 2b

That by the end of the first quarter of 2023-24, Santa Barbara County amend the existing agreement between the County and Wellpath (or its successors) that requires Wellpath medical staff, when faced with an emergent or urgent mental health case when Wellpath mental health staff is not on duty or available, to be trained on how to obtain outside assistance from a) senior regional Wellpath mental health staff and/or b) an available County Behavioral Wellness Crisis Management Team.

The partnership between the Sheriff's Office and Behavioral Wellness discussed earlier will accomplish the same purpose as this recommendation. The Sheriff's Office and the Department of Behavioral Wellness have come to a collaborative agreement to staff both the north and south county Mobile Crisis teams at the Main Jail and Northern Branch Jail, so that whenever they are not responding to a crisis in the community, they will be immediately available to assist custody and Wellpath staff in caring for mentally ill inmates in crisis. This will not require an amendment to the existing agreement with Wellpath. **Thus, this recommendation will not be implemented because it is not warranted.**

Recommendation 3

That by the end of the first quarter of 2023-24, Santa Barbara County and Santa Barbara County Sheriff's Office provide funding so that the Sheriff's Office implement effective advanced mental health crisis response training consisting of at least 40 hours of instruction and annual refresher training consisting of at least eight-hours for its custody staff.

The end of the first quarter of Fiscal Year 2023-2024 is too short of a timeline to conduct the analysis needed and determine the level of funding required. But perhaps more importantly, the Board of Supervisors also lacks the authority to dictate sworn workforce training requirements to the Sheriff. The Sheriff indicated in his response that he does not plan to implement this recommendation citing fiscal and staffing concerns. **This recommendation will not be implemented as it is not reasonable** at this time given the information above.

Recommendation 4b

That by the end of the first quarter of 2023-24, Santa Barbara County provide funding to the Santa Barbara County Sheriff's Office and the Sheriff's Office implement for its patrol staff and supervisors effective advanced mental health crisis response training consisting of at least 40 hours of instruction and annual refresher training consisting of at least eight hours.

The end of the first quarter of Fiscal Year 2023-2024 is too short of a timeline to conduct the analysis and determine the level of funding required. But perhaps more importantly, the Board of Supervisors also lacks the authority to dictate sworn workforce training requirements to the Sheriff. However, the Sheriff has indicated he will be doing further analysis related to this recommendation. Once that analysis is complete and a funding request comes to the Board of Supervisors it can be given further consideration. **This recommendation will not be implemented as it is not reasonable** at this time but can be reconsidered after the Sheriff's analysis is complete.

Finding 5

Lawfully shared data collection and analysis among multiple Santa Barbara County law enforcement agencies (Santa Barbara County Sheriff's Office, Santa Barbara County District Attorney's Office, Santa Barbara County Public Defender, Santa Barbara County Probation Department), the municipal police departments in Santa Barbara County (Guadalupe, Lompoc, Santa Barbara, and Santa Maria), mental health agencies (County Behavioral Wellness) and public health (County Public Health) agencies would provide relevant county personnel with better tools to effectively serve community members with mental health illness.

The Board of Supervisors agrees.

Recommendation 5

That by the end of the first quarter of 2023-24, Santa Barbara County, the Santa Barbara County Sheriff's Office, Santa Barbara County District Attorney's Office, Santa Barbara County Public Defender, Santa Barbara County Probation Department, and all local municipal city councils with police agencies (Guadalupe, Lompoc, Santa Barbara, and Santa Maria), mental health (County Behavioral Wellness), and public health (County Public Health) agencies adopt relevant recommendations for more effective data sharing in the referenced San Diego Association of Governments (SANDAG) study.

The County already has a structure in place that accomplishes a similar goal as requested by the Grand Jury. The County agencies identified above all participate in the Santa Barbara County Data Sharing Committee (previously known as the Criminal Justice Data Committee), with the purpose of establishing processes by which data can be shared and analyzed. The data sharing committee created a Memorandum of Understanding that outlines how data can be shared among the partner agencies. Data sharing of individual records is subject to legal restrictions, including privacy laws and attorney-client privilege considerations, which can limit the ability to share confidential client information. Some of the city agencies have participated on the committee previously but are not currently actively engaged. The County agrees to invite the local municipal city councils with police agencies to the committee. The referenced SANDAG study will not be utilized as a local mechanism for sharing with the County committee, as the committee already serves an equivalent purpose. Although the county values and supports effective data sharing, **this recommendation will not be implemented because it is not warranted** given the current structure in place.

Recommendation 6

That the County of Santa Barbara and the Sheriff-Coroner's Office request an independent review from the State Attorney General of all facts and circumstances leading up to the death-in-custody of JT, and any legal consequences that result from that review to include the following questions:

- 1. Whether within reasonable medical certainty, the custody staff's use of on-stomach prone restraint and JT's vigorous resistance to it was the direct cause of JT's cardiac arrest;**
- 2. Whether the custody staff followed Santa Barbara County Sheriff's Office training policies when they employed the on-stomach prone restraint hold of JT.**

The Board of Supervisors takes all deaths in custody seriously and relies on the systems in place for investigation and review. The District Attorney has reviewed the pathologist's report and found no basis for criminal liability. The Board of Supervisors has no additional information at this time to warrant requesting State Attorney General review of the Sheriff's investigation and the subsequent District Attorney's findings. As to whether the Custody staff followed their agency's training policies, this is a matter that would fall under the authority of the Sheriff to conduct an internal affairs investigation. Given the background information and authority, **this recommendation will not be implemented as it is not reasonable.**



Every Death in Custody Is a Failure

Finding 1

Wellpath electronic medical records established that KP had a long history of substance abuse and severe mental health illness. When the Sheriff's Office custody staff decided to house KP with a cellmate, it did not have access to the full extent of KP's well established severe mental illness history. Inmates' safety and overall health would be better protected if those making classification decisions had access to inmates' vital medical and mental health information.

The Board of Supervisors agrees that inmates' safety and overall health is likely to be better protected if those making classification decisions have access to inmates' relevant medical and mental health information.

Recommendation 1a

That Santa Barbara County and the Santa Barbara County Sheriff's Office promptly request that Santa Barbara County Counsel prepare a legal opinion as to whether, consistent with Federal and California law, Wellpath (or its successors) may provide critical inmate mental health information to Sheriff's custody staff that have an appropriate need to know that information for inmate housing and programming.

This recommendation has been implemented. The Sheriff's Office requested County Counsel's legal opinion concerning whether Wellpath (or its successor) may disclose mental health information.

Recommendation 1b

That if County Counsel determines that Wellpath (or its successors) has any legal authority to provide inmate mental health information, then Santa Barbara County shall amend the agreement between Wellpath and the Santa Barbara Sheriff's Office to provide inmate mental health and substance abuse information sharing on an appropriate need to know basis.

All parties agree that sharing of protected health information in a correctional setting is allowed when the information is necessary for the health and safety of inmates, individuals or custody staff. Extra privacy protections exist for substance abuse records. The current contract terms allow for information sharing as allowable under the statutes and regulations. **This recommendation will not be implemented as it is not warranted.**

Finding 2

KP was severely mentally ill, was traumatized by witnessing his cellmate's attempted suicide, and should not have been rehoused alone, back into the same cell.

Information about KP's mental health status is not known to the Board of Supervisors. However, based on the information presented it is reasonable to believe he was traumatized by witnessing his cellmate's attempted suicide and further assessment and support for KP was warranted. **The Board of Supervisors disagrees partially.**

Recommendation 2

That Santa Barbara County and the Santa Barbara Sheriff's Office ensure that inmates with severe mental illness and suicidal ideation histories receive immediate mental health professional care after they are exposed to traumatizing events, including, but not limited to, the suicide attempt of a cellmate.

This recommendation has been implemented by the Sheriff's Office. The Sheriff's Department reports that Wellpath issued a written directive and conducted training to ensure that inmates are provided with immediate mental health professional care after exposure to traumatizing events, including, but not limited to, the suicide or attempted suicide of a cellmate. Sheriff's custody staff participated in that training, and recently issued a critical incident follow-up communication directing custody staff to provide exposed inmates with enhanced observation, access to mental health services, and access to religious services.



A Vicious Cycle— Incarceration of the Severely Mentally Ill

Finding 2

Santa Barbara County could not provide to the Jury the costs of incarcerating people who suffer from substance abuse, mild to moderate mental health disorders or serious mental illnesses compared with the costs of providing meaningful community treatment for such persons.

The Board of Supervisors agrees. The County is able to provide the daily cost to house an inmate; however, the variables and types of mild to moderate mental health disorders or serious mental illnesses compared to meaningful community treatment options are extensive and complex, and extremely challenging to track from a cost perspective on an individual basis. However, there are numerous nationally recognized studies that affirm that treatment in the community is less costly than incarceration.

Recommendation 2

That Santa Barbara County prepare a study comparing the cost of incarcerating people who have substance abuse, mild to moderate mental health disorders or serious mental illness compared with the cost to provide effective community treatment for such persons.

National and State-level studies are available that affirm that the cost of incarcerating people who have substance abuse, mild to moderate mental health disorders or serious mental illness is greater than the total cost for community treatment, some of which also account for cost savings and cost shifting for the delivery of community behavioral health treatment in lieu of incarceration. Therefore, **this recommendation will not be implemented because it is not warranted.**

Finding 3

In December 2024, Santa Barbara County is mandated to create and implement the CARE Court program, which will run concurrent with AOT and an IST Solutions program.

The Board of Supervisors partially agrees. The County is mandated and plans to implement CARE Court and currently operates an Assisted Outpatient Treatment (AOT) program. A collaborative IST workgroup was formed in January 2023 and effective July 2023, is State funded for five years to identify strategies, including potential programs or process enhancements, to minimize occurrences of felony IST commitments within Santa Barbara County.

Recommendation 3a

That when Santa Barbara County creates and implements its CARE program, which will run concurrent with AOT and an IST Solutions program, the County ensure that there are community-based programs organized and operated with sufficient staffing and adequate resources.

In partnership with the Santa Barbara County Superior Court, the County plans to collaborate and contract with partner CBOs to implement the County's CARE program in compliance with the governing legislation. Although the recommendation is generally supported, it lacks specificity and would require the County to mandate operations upon community-based organizations (CBOs), which is not within the County's authority. **This recommendation will not be implemented, as stated, because it is not reasonable.**

Recommendation 3b

That when Santa Barbara County creates and implements its CARE program, which will run concurrent with AOT and a revamped IST program, the County ensure that community-based programs are adequately resourced, including but not limited to the following:

- 1. Outreach efforts must be fully staffed and maintain client relationships once a client is enrolled in treatment;**
- 2. Outreach efforts and referrals must be well coordinated based on the client's needs, diagnosis, current service status, and history;**
- 3. Avoid unnecessary criminalization of mental illness;**
- 4. Avoid further victimization of mentally ill persons on the streets;**
- 5. Clinical providers must be adequately staffed, experienced, and able to engage demanding clients long-term;**
- 6. Providers must be able to meet clients' essential needs, including adequate and coordinated County resources;**
- 7. Provide needed substance abuse treatment coordinated with mental healthcare;**
- 8. Provide stable housing in the County for the mentally ill and those suffering from substance abuse in areas where housing is currently severely limited;**
- 9. Provide clients with medications and dosages adjusted as needed, early medical appointments, and timely follow-ups;**
- 10. Provide clients continuity of care and do not discharge them before their treatment plan is completed;**
- 11. Use private-public partnerships to provide adequate system coordination and hospital bed space for those with mental health challenges, including those diagnosed with severe mental illness;**
- 12. Prevent repeated hospitalization and release after only short stays without notification to the clinical provider; and**
- 13. Only incarcerated and release clients with adequate coordination with the clinical provider.**

Recommendation 3b (cont.)

In partnership with the Santa Barbara County Superior Court, the County plans to collaborate and contract with partner CBOs to implement the County's CARE program to the requirements of the governing legislation. This recommendation would require the County to mandate operations upon CBOs and healthcare providers, which is not within the County's authority. If the recommendations listed above are a higher standard than the legal requirements and if sufficient resources are available, the County will review and implement additional recommendations as feasible and within its authority. **However, as stated, this recommendation will not be implemented because it is not reasonable.**

Finding 4

For the first two quarters of FY 2022-23, the Santa Barbara County Incompetent to Stand Trial caseload is one of the highest in the state.

The Board of Supervisors disagrees partially. According to the Department of State Hospitals IST Determinations for FY 2022-23, Santa Barbara County is ranked 11th out of 58 California counties in the number of IST determinations. In a population-based ranking, the County is ranked 20th. The County participates in Department of State Hospitals-funded programs that endeavor to reduce the County's overall IST commitments.

Recommendation 4a

That Santa Barbara County work with countywide criminal justice agencies to analyze why the Santa Barbara County Incompetent to Stand Trial caseload is one of the highest in the state.

This recommendation has been implemented. The County Executive Office is leading a workgroup, in collaboration with various County agencies as well as the Santa Barbara County Superior Court, with the primary objective of comprehensively studying the Incompetent to Stand Trial (IST) process and exploring strategies to minimize its occurrences within Santa Barbara County. Since January 2023, the workgroup has been meeting regularly to address this critical issue.

Recommendation 4b

That the County work closely with the Santa Barbara Superior Court and criminal justice agencies to identify effective community-based treatment programs to reduce Incompetent to Stand Trial orders and Department of State Hospitals commitments.

This recommendation has been implemented. The County Executive Office is leading a workgroup, in collaboration with various County agencies as well as the Santa Barbara County Superior Court, with the primary objective of comprehensively studying the IST process and exploring strategies to minimize its occurrences within Santa Barbara County. Since January 2023, the workgroup has been meeting regularly to address this critical issue.



Death on Electronic Monitored Home Release

Finding 2

That if the Sheriff's Office had known of NM's mental health history, it indicated it would have more closely monitored him to ensure meaningful participating in effective substance abuse and mental health clinical programs.

The Board of Supervisors agrees.

Recommendation 2a

That the Santa Barbara County Sheriff's Office and the Santa Barbara County Probation Department promptly request that Santa Barbara County Counsel prepare a legal opinion as to whether, consistent with Federal law, Wellpath or any successor may provide critical inmate mental health information to Sheriff's Office personnel who need to know that information for inmate housing, programing, and Electronic Monitored Home Release program decisions.

This recommendation has been implemented.

Recommendation 2b

That if Santa Barbara County Counsel determines that Wellpath does have legal authority to provide inmate mental health information to Sheriff's Office personnel and Santa Barbara County Probation Department, then the County and the Santa Barbara County Sheriff's Office shall amend the existing agreement with Wellpath to require such sharing to the full extent of the law.

All parties agree that sharing of protected health information in a correctional setting is allowed when the information is necessary for the health and safety of inmates, individuals or custody staff. Extra privacy protections exist for substance abuse records. The current contract terms allow for information sharing as allowable under the statutes and regulations. Therefore, **this recommendation will not be implemented as it is not warranted.**



Questions?

Recommended Actions

- a) Consider and adopt the responses in Attachment A as the Board of Supervisors' response to the 2023 Grand Jury report entitled "A Death in Custody – Lessons Learned”;
- b) Consider and adopt the responses in Attachment B as the Board of Supervisors' response to the 2023 Grand Jury report entitled "Every Death in Custody is a Failure”;
- c) Consider and adopt the responses in Attachment C as the Board of Supervisors' response to the 2023 Grand Jury report entitled “A Vicious Cycle - Incarceration of the Severely Mentally Ill”;
- d) Consider and adopt the responses in Attachment D as the Board of Supervisors' response to the 2023 Grand Jury report entitled “Death on Electronic Monitored Home Release”;
- e) Authorize the Chair to sign the letters included in Attachments A, B, C, and D, and forward the letters and responses to the Presiding Judge of Santa Barbara County Superior Court; and
- f) Determine pursuant to CEQA Guidelines 15378(b)(5) that the above actions are not a project subject to CEQA review, because they are government administrative activities that do not result in direct or indirect physical changes to the environment.