




**CONTRA COSTA
MENTAL HEALTH COMMISSION**

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MENTAL HEALTH
COMMISSION**

1340 Arnold Drive, Suite 200
Martinez, CA 94553

Ph (925) 313-9553
Fax (925) 957-5156

cchealth.org/mentalhealth/mhc

Current (2022) Members of the Contra Costa County Mental Health Commission

Barbara Serwin, District II (Chair); Laura Griffin, District V (Vice Chair); Diane Burgis, BOS Representative, District III;
Douglas Dunn, District III; Kathy Maibaum, District IV; Leslie May, District V; Joe Metro, District V; Alana Russaw, District IV;
Rhiannon Shires, District II; Geri Stern, District I; Gina Swirsding, District I; Graham Wiseman, District II
Candace Andersen, Alternate BOS Representative for District II

Mental Health Commission (MHC)

Wednesday, February 2nd, 2022, ♦ 4:30 pm - 6:30 pm

VIA: Zoom Teleconference:

<https://cchealth.zoom.us/j/6094136195>

Meeting number: 609 413 6195

Join by phone:

1 646 518 9805 US

Access code: 609 413 6195

AGENDA

- I. Call to Order/Introductions (5 minutes)**
- II. Public Comments (2 minutes per person maximum)**
- III. Commissioner Comments (2 minutes per Commissioner maximum)**
- IV. Chair Comments/Announcements (2 minutes)**
 - i. Second module of Commissioner Orientation “Introduction to Behavioral Health Services” will be presented BEFORE THE March Commission meeting at 3:30 to 4:20 PM**
 - ii. Recordings of the January, 2022 Board of Supervisors’ Retreat and discussion of annual Budget Year Key Issues & Projections are available on the BOS website**
 - iii. SB 21 championed by Commissioner Graham Wiseman passed the Senate – creates funding for increasing awareness and reducing stigma for youth through the sale of license plates**
 - iv. Former Commissioner Teresa Pasquini testified on Lanterman-Petris-Short Act issues and concerns at the December 15, 2021 Joint Informational Hearing of the Health and Judiciary Committees of the California State Senate**
 - v. Code of conduct will be presented at the March Commission meeting**
- V. APPROVE January 5th, 2022 Meeting Minutes (5 minutes)**
- VI. UPDATE on recent site visit interviews with Crestwood Our House and the next site visit at Harmony Home Care or Hope House (2 minutes)**

(Agenda continued on Page Two)



The Contra Costa County Mental Health Commission is appointed by the Board of Supervisors to advise them on all matters related to the county's mental health system, in accordance with mandates set forth in the California State Welfare & Institutions Code, Sections 5604 (a)(1)-5605.5. Any comments or recommendations made by the Mental Health Commission or its individual members do not represent the official position of the county or any of its officers. The Commission is pleased to make special accommodations, if needed, please call ahead at (925) 313-9553 to arrange.



Mental Health Commission (MHC) Agenda (Page Two)

Wednesday, February 2nd, 2022 ◊ 4:30 pm - 6:30 pm

- VII. DISCUSS 2022-2023 BHS budget priorities (60 minutes):**
- BHS budget priorities, Dr. Suzanne Tavano, Director of BHS Services; Gerold Loeniker, Chief of Children and Adolescent Services; Dr. Jan Cobaleda-Kegler, Chief of Adult and Older Adult Services; Dr. Chad Pierce, Chief of Crisis Services ; Kenisha Johnson, Mental Health Program Chief of Housing Services
 - MHSA Three Year Plan budget update, Jennifer Bruggeman, MHSA Program Manager
 - Budget process next steps
- VIII. DISCUSS BHS strategies and steps to address the needs of the misdemeanor incompetent to stand trial (MIST) population who have transferred / are transferring to Contra Costa County, Dr. Suzanne Tavano, Director of BHS Services (5 minutes)**
- IX. CONSIDER the Motion brought forth from the January 20, 2022 MHSA-Finance Committee Meeting (10 minutes):**
- “The Mental Health Commission advises the county Behavioral Health Services to include a minimum of \$10million to cover the necessary Housing, Treatment, and Services needed for this most vulnerable and highest need population to include:*
- a. Multi-Service level Forensic and Civil Mental Health Rehabilitation Center (MHRC) treatment and services*
 - b. Multi-level step down housing, treatment, and services”*
- X. CONSIDER the Motion brought forth from the December 16, 2021 Quality of Care Committee Meeting (10 Minutes):**
- “The Mental Health Commission advises Behavioral Health Services and the Board of Supervisors to fund a comprehensive needs assessment of the county’s continuum of care system of placing, tracking, treating, and housing the specialty mental health population.”*
- XI. RECEIVE Behavioral Health Services Director’s Report, Dr. Suzanne Tavano (10 minutes)**
- XII. 6:30 Adjourn**

ATTACHMENTS:

- A. Finance Committee Motion**
- B. Proposed MHS Budget FY22-25 MIST Population**
- C. Quality of Care Committee Motion**
- D. Proposed Quality of Care Motion Needs Assessment**

Mental Health Commission
Proposed Motion(s)

Agenda Item X

Meeting Date: February 2nd, 2022

**Motion (original): MHSA-Finance Committee Meeting 1/20/22
(Agenda Item VIII)**

MOTION:

The Mental Health Commission (MHC) **advises** the county Behavioral Health Services (BHS) to include a minimum of \$10mil to cover the necessary Housing, Treatment, and Services needed for this most vulnerable and highest need population to include:

- a. Multi-Service level Forensic and Civil Mental Health Rehabilitation Center (MHRC) treatment and services
- b. Multi-level step down housing, treatment, and services

Felony Incompetent to Stand Trial & LPS Murphy Conservatorship MHSA-Finance Agenda Item Notes—Douglas Dunn 1

NOTE: 60%+ of the 70-95 person population discussed below are Black, and Indigenous People of Color.

This agenda item discusses the Housing, Treatment, and Services needs of this highest need population. On June 15, 2021, the 5th District Appellate Court upheld the Stivetti vs. Ahlin and now Clendenin lawsuit decision requiring the Dept. Of State Hospitals (DSH) to accept person into a DSH bed within 28 days of a person being adjudged IST. As a result, the state legislature passed legislation, AB 133 and Welfare and Institutions Code 4147 which established a statutory time limited (11/30/2021) IST Solutions Workgroup seeking to clear out the now 1,800+ person and daily growing waitlist which has been tremendously impacted by the COVID-19 pandemic. Because of the fast spreading Omicron variant, the DSH now has another 30 day stop on any admissions until at least February 1, 2022.

Very briefly, a person adjudged Incompetent to Stand Trial (IST):

- Does not rationally understand the criminal charges against him or her, AND/OR
- Cannot rationally help with defense counsel (usually a public defender) in presenting a defense against the criminal charge(s).

Per several US Supreme Court decisions, the legal standard of proof is:
Preponderance of the Evidence.

Ms. Stephanie Regular, JD, Supervisor of the Contra Costa Public Defender's 7 attorney Mental Health unit, was a formal member of this workgroup. I participated as a member of the public in this state level workgroup and its several working group meetings which were generally biweekly from August 17 thru November 19, 2021. Attached is the Workgroup's 11/30/2021 final report.

In summary, as a result of these developments the following developments have either occurred or will occur:

- Persons adjudged Misdemeanor Incompetent to Stand Trial (MIST) can no longer be referred to any state hospital. They remain in their "county of origin" in which the alleged crime(s) was/were committed. For Contra Costa County, this means 22 persons currently adjudged MIST remain in this county. Per recently passed SB 317, persons with this legal status are eligible for either:
 1. Mental Health Diversion (MHD), or
 2. Assisted Outpatient Treatment (AOT), or
 3. LPS Conservatorship, or
 4. Case Dismissed if an MHD, AOT, or LPS Conservatorship slot is not available.To make matters worse, their minimal county Behavioral Health psychiatric services ended January 1, 2022. As a result, the Mental Health Commission's (MHC) MHSA-Finance Committee recently asked Mental Health Services (MHS), Inc., the contracted AOT service provider to prepare an attached real life "what-if" budget for this population's, Housing, Treatment, and Services. Their projected cost is \$3M annually for 22 persons.

Felony Incompetent to Stand Trial & LPS Murphy Conservatorship MHS-A-Finance Agenda Item Notes (cont'd)—Douglas Dunn 2

- Persons adjudged Felony Incompetent to Stand Trial (FIST) will return to this county over the next several years, definitely by early 2025. The size of this population is 50+ persons. Because of this group's heavy criminal justice system involvement, the needed Housing, Treatment, and Services required are very complex on multiple levels. For example, because of the nature of their felony criminal charges, they have to initially, at least, be housed in a multi-treatment level Forensic Mental Health Rehabilitation Center (FMHRC). From personal observations, I know the District Attorney's (DA) Deputy in charge of Mental Health Litigation will not allow these persons to be initially placed, at least, in an unlocked Adult Residential Facility (ARF) treatment and rehabilitation services housing setting. Because of the serious nature of the felony charges involved, I've personally watched her persuade the presiding judge to deny these persons MHD. Afterward, I've counseled the families who are absolutely devastated!!
- In addition, a smaller subgroup are persons who have been both civilly adjudged "Gravely Disabled" and charged with the most dangerous felony charges, namely:
 1. Murder, or
 2. Attempted Murder, or
 3. Have threatened a person or persons "within an inch of their lives."These persons are classified as LPS Murphy Conservatees. They reach this status after having been FIST in a state hospital setting for 2 consecutive years. The legal standards of Proof for an LPS Murphy Conservatorship are:
 - Gravely Disabled—Beyond a Reasonable Doubt
 - Incompetent to Stand Trial (IST)—Preponderance of the EvidenceCurrently, 5-7 persons from Contra Costa County are classified as LPS Murphy Conservatees.

Finally, under a CCBHS approx. \$7M/yr. contract, 20 persons in a civil LPS 1 Year Renewable Conservatorship are currently in state hospital beds. They may also be coming back to Contra Costa County, depending on the Dept. of State Hospitals.

As stated, housing and treatment and services and reimbursement costs are complex for these populations because of the Institute of Mental Diseases (IMD) Medi-Cal Reimbursement Exclusion for persons 21-94 years of age. This means that Contra Costa Behavioral Health Services (CCBHS) only receives state Medi-Cal, not any dollar for dollar matching Federal Financial Participation (FFP) matching reimbursement funding for persons in any MHRC or state DSH bed. **This currently costs CCBHS about \$15M annually in "lost" FFP reimbursement.**

There is some hope with \$2.2B available in a one-time competitive grant process available from the approved 2021-2022 state budget. However, CCBHS will have to bid which could be a tall order given its previously very uneven success in such endeavors, such as No Place Like Home (NPLH)..

If these efforts fail, most of these persons could wind up re-incarcerated!!

Felony Incompetent to Stand Trial & LPS Murphy Conservatorship MHSA-Finance Agenda Item Notes (cont'd)—Douglas Dunn 3

1. Along with this 1st Attachment summary write up of the Felony Incompetent to Stand Trial (FIST) and LPS Murphy Conservatorship issues are additional related attachments. The purpose of each of these remaining attachments is:
2. W&I Code Section 4147 (3 pages). This laid out the scope boundaries of the time limited state level IST Solutions Workgroup as well as potential Dept. of State Hospital (DSH) penalties for not meeting the Short, Medium and Long Range time tables specified in AB 133 and this W&I Code section.
3. IST Solutions Report Final v2 (65 pages). Explains the Dept. of State Hospital's (DSH) understanding of the very complex Incompetent to Stand Trial Issue as well as recommendations to the Secretary of the CA Health & Human Services (CHHS) agency (Dr. Mark Ghaly), the state Dept. of Finance, and finally, the legislature.
4. Trailer Bill—Behavioral Health Continuum Infrastructure Program (4 pages). Details the entities involved in and the allowed facilities to be bid for to either be refurbished or built in this county.
5. Initial Bid Form for CC IST Population (13 pages). This is the form Contra Costa Behavioral Health Services (CCBHS) will use to bid either refurbishing or build the facilities to treat and serve the needs of the multi-level Incompetent to Stand Trial (IST) and LPS Murphy Conservatorship population returning to this county.
6. Assessing the Continuum of Care for Behavioral Health Services in California (205 pages). This is the statewide needs assessment which the Dept. of Health Care Services (DHCS) recently released (over 2 months late). This is an imperfect state level "roadmap" of the current behavioral health treatment and service gaps throughout the state. The information in this report is what the state agencies involved in "scoring the bid proposals will likely use to determine which bids are accepted or rejected.
7. MIST Budget 2122v-20212227 SUBMIT (1 page) which lays out the categories of the \$3M annually to properly serve the current 22 person Misdemeanor Incompetent to Stand Trial population in this county. **NOTE:** This information gives a realistic ideal of the minimum costs per person costs of serving the much more 50+ person complex Felony Incompetent to Stand Trial (FIST) and LPS Murphy Conservatorship population coming back to this county from state hospitals. $\$3M \times 2 =$ an additional \$6M annually to properly treat and serve the FIST population. Add another 1M annually for the 5-7 person LPS Murphy Conservatorship population. **Total CCBHS IST annual costs. \$10 Million+..**
8. MIST Budget 2122 Detailed Explanations (1 page) which lays out the annual specialized costs for serving the MIST population. Similar to likely FIST & LPS Murphy Conservatee costs.
9. Murphy Conservatorship—CA's Answer to Permanent Incompetence (9 pages) which discusses the history, legal and treatment rationale for and use of this unique California LPS Conservatorship law. Very interesting reading.

Mental Health Commission
Proposed Motion(s)

Agenda Item XI

Meeting Date: February 2nd, 2022

**Motion (original): Quality of Care Committee Meeting 12/16/21
(Agenda Item IX)**

MOTION:

The Mental Health Commission advises Behavioral Health Services and the Board of Supervisors to fund a comprehensive needs assessment of the county's continuum of care system of placing, tracking, treating, and housing the specialty mental health population.

Quality of Care Committee Proposed Motion: Needs Assessment for Placements in Contra Costa County

I. Motion Language

“The Mental Health Commission advises Behavioral Health Services and the Board of Supervisors to fund a comprehensive needs assessment of the county’s continuum of care system of placing, tracking, treating, and housing the specialty mental health population.”

II. Background Research

Over the past year of 2021 the Quality of Care Committee has researched the question of “what types of placements do we need” and “how many placements do we need” for the Seriously Mental Ill (SMI) population in Contra Costa County along the entire continuum of care. We interviewed staff to learn about our county’s system of placing clients from Psychiatric Emergency Service in crisis residential facilities, to residential treatment facilities and board and cares, monitoring and reviewed research and proposals on this topic. We are still learning about how clients are monitored and transitioned, but we do have background information in these areas, some of it from staff, much of it from family members.

The timely documents listed in Section IV are seminal to our knowledge and perspective. They detail the need for additional placements for the SMI population in California and a few spotlight counties. The CA Department of Health Care Services report (2022) provides data for counties from all over the state. The “Housing That Heals” paper (2021) describes the need for Contra Costa County and recommends tangible solutions for expanding the county’s inventory of placements. The San Francisco bed optimization study (2020) demonstrates how to estimate the need for different categories of placements. The Santa Barbara and Los Angeles county reports (2016 and 2021 respectively) estimate demand and make concrete proposals for expanded or new facilities with price tags attached.

III. Needs Assessment Scope

We have more than enough background information to understand generally what we need. However, we don’t have data for defining what we need. We need data in order to determine the county’s specific needs and to propose specific projects. We need:

- an inventory of existing placements from acute to crisis to residential to supported living;
- an estimate of demand;
- an estimate of the need for additional placements;
- a mapping where county clients are being treated now;
- the cost of housing/treating client in and out of county.

The Quality of Care Committee recommends a needs assessment to define this data and to then propose solutions based on the data.

IV. Seminal Documents

- “Housing That Heals”, Teresa Pasquini and Lauren Retagliata, 2020
- “Assessing the Continuum of Care for Behavioral Health Services: Data, Stakeholder Perspectives, and Implications”, State of California Department of Health Care Services, see especially pp. 51-57 on Community Services and Supports and pp. 95-98 on Availability of Inpatient Services, 2022
- "LA County Department of Mental Health Board and Care Initiatives" presentation prepared by Maria Funk, Deputy Director of Housing and Job Development for LA County, 2021
- “Behavioral Health Bed Optimization Study”, San Francisco Department of Public Health, 2020
- “Review of Capital Resources and Behavioral Health Facilities”, Santa Barbara County, 2016