

Date: October 5, 2017

To: Honorable Steven R. Sanders, Presiding Judge
Superior Court of California, County of San Benito

From: San Benito County Board of Supervisors

Subject: Re-submittal of Response to San Benito County Grand Jury Report for FY 2015-2016 in Reference to “Jail Report”, “Juvenile Hall Report”, and “Public Healthcare Management Report”

This joint letter contains San Benito County’s formal response to the Grand Jury Report for FY 2015-16 specifically relating to the “Jail Report”, “Juvenile Hall Report”, and “Public Healthcare Management Report.” This response fulfills Penal Code Section 933 that mandates a response to the Grand Jury Report within 90 days of the report.

The Board of Supervisors reserves the right to implement or change its position as outlined in the Findings and Recommendations listed below in accordance with available budgetary and staff resources. Additionally, the Board of Supervisors acknowledges the role and authority of the County Administrative Officer to establish and implement administrative Findings and directives to insure the timely and efficient administration of County Government in accordance with all applicable California State Statutes as well as policy priorities and initiatives established in the San Benito County Fiscal Year Budget.

I. COUNTY PARK PEDESTRIAN SAFETY REPORT

FINDINGS

Finding F1

The speed limit of 40 mph is higher than the typical residential limit of 25 mph, presenting higher risk of vehicular pedestrian injury.

Response to Finding 1

The Board of Supervisors disagrees with this Finding.

The street in question is a city street which is outside the County's jurisdiction. Therefore, the Board of Supervisors does not respond to this Finding.

Finding F2

The speed limit on Memorial Drive does not reflect the use of existing speed risk data or any risk analysis.

Response to Finding 2

The Board of Supervisors disagrees with this Finding.

This street in question is a city street which is outside the County's jurisdiction. Therefore, the Board of Supervisors does not respond to this Finding. However, this topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

Finding F3

Perception by some residents is that local government is either unaware of the risks to pedestrians on Memorial Drive or is unconcerned.

Response to Finding 3

The Board of Supervisors agrees with this Finding.

This topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

Finding F4

There is a lack of vehicle calming methods to assist pedestrian safety.

Response to Finding 4

The Board of Supervisors partially disagrees with this Finding.

The County of San Benito agrees that there are no vehicle calming methods between the existing stop signs and traffic signals. This topic is appropriate for further discussion at an

Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

RECOMMENDATIONS

Recommendation R1.

F1, F2, F3, F4, Lower the speed limit on the segment of Memorial Drive adjacent to the park to a speed based on a combination of studies and surveys, not just the speed summary in cooperation with the City of Hollister.

Response to Recommendation R1

This recommendation will not be implemented because it is not warranted.

This street is a city street which is outside the County's jurisdiction. However, the topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

Recommendation R2.

F3, F4, Put in a crosswalk from the playground area to the ballpark entrance.

Response to Recommendation R2

This recommendation will not be implemented because it is not warranted.

The street in question is a city street which is outside the County's jurisdiction. However, the topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

Recommendation R3.

F3, F4, Place calming techniques such as adding plate strips, Bott dots, speed bumps and/or advisory signs, paint the speed limit on the asphalt, yellow flashing lights during events.

Response to Recommendation R3

This recommendation will not be implemented because it is not warranted.

The street in question is a city street which is outside the County's jurisdiction. However, the topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

Recommendation R4.

F3, F4, Attempts should be made to make the motorist aware of non-apparent conditions while driving on Memorial Drive given the presence of events and pedestrians.

Response to Recommendation R4

This recommendation will not be implemented because it is not warranted.

The street in question is a City of Hollister street which is outside the County's jurisdiction. However, the topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

Recommendation R5.

F1, F2, F3, F4, Local government should not wait until a major traffic injury or fatality occurs on the Memorial Drive segment adjacent to Veterans Park before addressing the speed issue. Local government should acknowledge and further evaluate safety and the speed to prevent and not wait to react to accidents. Local government should decide if conditions warrant another E&TS be done before 2017.

Response to Recommendation R5

This recommendation will not be implemented because it is not warranted.

The street in question is a City of Hollister street which is outside the County's jurisdiction. However, the topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

Recommendation R6.

F1, F2 Conduct further analysis: Determine the number of pedestrians during a typical event and on a regular day. Count the traffic during a typical event and on a regular day. Research the risk of injury based on the number of pedestrians in proximity to the number of cars. Determine if any benefits exist in a speed limit of 40mph.

Response to Recommendation R6

This recommendation will not be implemented because it is not warranted.

The street in question is a City of Hollister street and is thus outside the County's jurisdiction. However, the topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

II. SAN BENITO COUNTY JAIL REPORT

FINDINGS

Finding F1

The jail requires a full-time, dedicated maintenance person for both preventative maintenance and routine repairs.

Response to Finding F1

The Board of Supervisors agrees with this Finding.

Finding F2

The county jail staff excellently runs the jail without critical resources. Though admirable, this cannot nor should not last indefinitely. SBCGJ recognizes the county jail for what it is: a vital community agency, which renders superb service to the public 24 hours a day/7 days a week.

Response to Finding F2

The Board of Supervisors agrees with this Finding and commends the jail staff.

Finding F3

Incidents of correctional officers injured due to lack of training/use of the safety chair used for violent inmates.

Response to Finding F3

The Board of Supervisors agrees with this Finding.

Finding F4

Though urgently needed, there is no acceptable and workable protocol for WIC 5150 Psychiatric holds.

Response to Finding F4

The Board of Supervisors agrees with this Finding.

Finding F5

Additional staffing needed. Required duties performed per shift indicate the ratio of staff to inmates is at unsafe levels during known influx times.

Response to Finding F5

The Board of Supervisors agrees with this Finding.

Finding F6

Inmate complaints about the quality and portions of food provided at the jail seem warranted.

Response to Finding F6

The Board of Supervisors agrees with this Finding.

RECOMMENDATIONS

Recommendation R1

F1. Employ a full-time, dedicated maintenance person for both preventative maintenance and routine repairs. The employee has his main office at jail and work on other outside Public Works jobs, if needed; not the other way around as is now. Note: If governing bodies plan to address this recommendation with a statement that simply refers to "lack of funds", SBCGJ also recommends this be accompanied by a cost/risk/benefit analysis using hours CO spend on repairs versus other duties; associated risk with CO's taken off the floor to do maintenance and the safety risk of skipping repairs; cost of major repairs due to lack of preventative maintenance; and a list of critical equipment's most recent preventive maintenance and calibrations.

Response to Recommendation R1

The County will not implement this recommendation because it is not reasonable due to budget limitations.

The County currently has three maintenance employees that provide services for the entire County. A formal cost/benefit analysis will not be implemented due to the fact that adequate services should be able to be performed by current maintenance staff without dedicating this staff full-time to the jail.

Recommendation R2

F2, F5. Provide the jail with needed resources and staff. The BOS should not become complacent and assert because the jail staff runs the jail well doesn't mean they don't need the additional assets that they continue to request. They make it work because it is a matter of life or death. Not providing the jail with assets penalizes staff for a job well done and keeps the jail running at high stress levels. Staffing is needed specifically during daytime court transports and in the evening for the additional duties specific during the night hours (i.e. when no nurse, medical, or behavior health personnel is on site). Additional staffing should also be regularly provided for planned events when it is known there is a large influx of people into the community, such as the bike rally weekend. Required duties performed per shift clearly indicate the ratio of staff to inmates is at unsafe levels during influx times.

Response to Recommendation R2

The County has not yet implemented but the County will partially implement this recommendation within six months.

This budget cycle the BOS will focus on providing additional on-site medical, to assist in nightly medication pass, swing shift medical screenings for newly arrived arrestees, and coverage for medical emergencies. Staffing for special events has been provided and will continue to be

based on specific intelligence and perceived needs. Transport has been staffed with one (1) additional deputy for the last two (2) years, creating a total of three (3) transport deputies. There are times when the three (3) deputies assigned to transport are not enough. Overtime is utilized to fill those gaps and will continue to be used. The Board believes that the current budget recommendation is sufficient to meet these needs.

Recommendation R3

F3. Provide the jail staff with needed training. Provide training in extraction and restraint for hostile inmates, specifically in regard to utilizing the safety restraint chair. Having no policy or training on a safety chair used for violent inmates has already led to staff injury. Use of the Restraint Chair is necessary and therefore appropriate training is required.

Response to Recommendation R3

The County has already implemented this recommendation.

Staff is provided with twenty-four (24) hours of continuing professional training annually which is what is required by Standards & Training for Corrections (“STC”). Annually they are trained in defensive tactics, range, first-aid and a variety of trainings provided locally.

Staff is also required to stay current in Prison Rape Elimination Act (“PREA”) training, county required training for supervisors and jail managers. The jail has met standards regarding its STC training reviews for the last two (2) years. However there can never be enough training and concerted efforts are being made to identify a robust, meaningful training regimen which is also fiscally responsible and budgetary acceptable.

Training in the use of the restraint chair was provided to a select group of officers in 2016. However, use of the restraint chair requires significant involvement from a medical care provider. Placement must be medically reviewed within one hour, and additional assessment conducted every four (4) hours; Title 15 CCR Section 1058. So the jail staff’s inability to use this tool is primarily based on our limited medical coverage.

While use of a restraint chair may be considered necessary under certain circumstances, such use for placement of a combative subject generally takes more staffing resources than the jail has on-duty at a given time. Although sometimes a valuable tool, the implementation of a restraint chair can produce injury to inmates and staff if that implementation is attempted without sufficient staff. That aside, the jail only has the necessary medical resources present to utilize the restraint chair for 8 hours per 24-hour period. For additional information regarding the use of restraint chairs, kindly refer to Section 1058 of Title 15. The Board of Supervisors will evaluate the value of undergoing the training for those occasions when the jail does have medical services present (8 hours per day) and sufficient staff numbers (periodically).

There is policy that could be authored and distributed almost immediately if and when we have the resources, staff and medical staff, to deploy such a policy. With more staffing and increased medical it will become a viable option in the future.

Recommendation R4

F4. Collaboration is vital to determine a workable system for WIC 5150 inmate evaluation and treatment. An agreement needs to be reached between the County Jail and Behavioral Health that is acceptable to both parties in regard to call out procedures; to evaluate suicidal inmates in a more timely manner so that correctional staff is not used for prolonged monitoring of a suicidal inmate or inmates needing other special psychiatric care.

Response to Recommendation R4

This recommendation will be implemented within the 2016-17 fiscal year.

The Assistant County Administrative Officer is involved in facilitating communication and mutual cooperation between the Sheriff's office and Behavioral Health which is designed to accomplish this recommendation.

Recommendation R5

F6. It is time for SBC governing agencies to analyze carefully the potential high costs of the poor quality of food given to people in lock-up. The pervasiveness of food quality complaints by inmates in the SBC Jail is a call for stepped up external oversight. Not simply relying on reports generated by the contractor, the BOS should conduct an in depth management analysis of taxpayers' money spent for inmates in a service contract. This evaluation should review OSHA guidelines for quality assurance; proper food handling; food safety; and that FDA guidelines for nutrition are being provided to inmates. *The BOS is strongly encouraged to opt for inspection from an outside nonprofit organization, such as the American Correctional Association.*

Response to Recommendation R5

This recommendation has been partially implemented by the Sheriff's Office.

The County does not believe paying for outside analysis is warranted at this time. The Grand Jury report indicates receiving "unequivocally" complaints from inmates during their inspection; that food is unpalatable; portions were small, lacked protein and had an unhealthy limited change in variety. The jail's vendor, Aramark Correctional Services, employs Nutrition and Operational Support Services personnel made up of Registered Dietitians who are dedicated solely to the correctional industry and secured environments. They are responsible for menu planning for the general population, as well as for therapeutic diet needs, in accordance with the standards set by the American Corrections Association and the National Commission of Correctional Health Care. These procedures are standards used by Aramark Correctional Services to:

- 1. Provide a quality diet program for correctional facilities.*
- 2. Meet recommendations of the American Correctional Association.*
- 3. Meet recommendations of the National Commission on Correctional Health Care of the American Medical Association.*

Their regular menu is developed to meet the Recommended Dietary Allowances and the Dietary Reference Intake for the age, sex, and activity level of the jail's population; as specified in the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences. The menu specifies a weekly average of 2600 calories per day, with less than 30% of calories from fat. A nutrition statement is prepared and signed annually by a dietician.

Each year, the San Benito County Health Department conducts their annual inspection. A Registered Dietician from Hazel Hawkins Hospital, a County Registered Nurse and a County Environmental Inspector inspect three sections of the jail; Medical/ Mental Health, Nutrition and the physical plant. The nutrition inspection consists of Food Handling, Frequency of Serving, Minimum Diet, Food Service Plan, Kitchen Facilities, Sanitation and Food Service, Food Serving and Supervision, Disciplinary Isolation Diet, and Medical Diets.

Comments from the 2016 Health Inspection made by Jennifer Bange, MS RD; states that the menu has been approved by the Aramark dietician and is nutritionally adequate. At times substitutions are made to the menu based on food availability at the Santa Rita facility, but the substituted food items are of equivalent nutritional value. Inmates are not given salt packages because of the healthy guidelines on which the menu is based, but a black pepper packet is supplied.

The health inspection report finds that the Aramark menu plan meets Article 1242, Menus; states that menus are planned at least once a month in advance of their use. Menus are planned to provide a variety of foods, thus preventing repetitive meals.

In Ms. Bange's summary of the nutritional evaluation; she states that she reviewed the meal temperature logs as well as the freezer and refrigerator temperature logs. No problems were identified. This was one of the concerns that the Grand Jury expressed.

III. SAN BENITO COUNTY JUVENILE HALL REPORT

FINDINGS

Finding F1

There is no clear understanding on what the status is on the project to fix the basketball court and cement over the dangerous, hole-filled grass area.

Response to Finding F1

The Board of Supervisors agrees with this Finding.

The Board has been in agreement with this Finding since the initial draft of the Grand Jury report. The Probation Department has been working with the San Benito County Resource Management Agency (RMA) to repair the recreation yard. The vision regarding the recreation yard repairs and other maintenance issues, as well as efforts and status to address these matters have been communicated internally. This effort is part of a larger project for overall repairs and maintenance of the facility. However, finalization of those plans and management of the overall project has taken longer than hoped and communication regarding the status of this project could have been more comprehensive.

Finding F2

The shower in the intake area needs to be remodeled for safety reasons.

Response to Finding F2

The Board of Supervisors agrees with this Finding.

Finding F3

There has been recent training for the staff, but continuous and additional training would be beneficial.

Response to Finding F3

The Board of Supervisors partially disagrees with this Finding.

The implication that staff members do not receive on-going training is incorrect. The Board of State and Community Corrections – Standards and Training for Corrections (BSCC – STC) Regulations mandate that full-time Juvenile Institutional Officers receive initial/basic or “Core” training of over 200 hours, certified by the STC, and minimum annual training of twenty-four (24) hours of STC Certified courses. The County consistently meets or exceeds this requirement for each officer. It is acknowledged that the part-time (Extra-Help) Juvenile Institutions Officers (JIOs) are under no such mandate. While Extra-Help JIOs must be accompanied by “Core-Trained” staff, it is acknowledged that additional training for Extra-Help JIOs would be helpful.

Finding F4

There is no regular facility maintenance employee.

Response to Finding F4

The Board of Supervisors agrees with this Finding.

Facility maintenance above and beyond basic cleaning is coordinated by the Resource Management Agency (RMA). While there is no single employee assigned by RMA to the Juvenile Hall, RMA does provide maintenance to both the Juvenile Hall and the Jail.

Finding F5

The Mission Statement is outdated.

Response to Finding F5

The Board of Supervisors agrees with this Finding.

RECOMMENDATIONS

Recommendation R1

F1. Get an update from Capital Projects on what is needed to complete the resurfacing and repair.

Response to Recommendation R1

This recommendation has been implemented.

While this specific project is to be completed, a number of other repair and maintenance items are also being addressed. This effort is part of an overall repair and maintenance plan for the entire facility. A presentation by the Probation Department and the Resource Management Agency regarding the status of Juvenile Hall Recreation Yard, as well as other repairs, was made to the San Benito County Board of Supervisors during its regularly scheduled meeting on April 25, 2017.

Recommendation R2

F2. Remodel the shower in the intake area in a timely manner.

Response to Recommendation R2

This recommendation has not yet been implemented but will be implemented within the next six months.

This topic is also being addressed as part of the overall repair and maintenance plan for the facility.

Recommendation R3

F3. Provide additional training for the staff, both in the corrections area and in the juvenile counseling area.

Response to Recommendation R3

This recommendation has not been implemented but will be implemented within the six months.

Continuous and relevant training is a key component to maintaining professional staff. All regularly employed Juvenile Institutional Officers are required to have a minimum of 24-hours of certified training annually. Additional training for extra-help JIOs will be provided.

Recommendation R4

F4. Provide additional funding for a full time maintenance employee.

Response to Recommendation R4

The Board of Supervisors will not implement this recommendation because it is not reasonable due to budgetary limitations. *Much of the repair issues at this time are being addressed through the overall repair and maintenance project. At this time, dedicating funding specifically*

for a single maintenance employee may be pre-mature, and should be examined once all the repairs are completed to assess and determine what regular basic maintenance needs to be completed to maintain the facility.

Recommendation R5

F5. Update and shorten the mission statement

Response to Recommendation R5

This recommendation will be implemented within the next six months.

The mission statement is the forward facing declaration of the purpose of Juvenile Hall.

However, development of a truly viable and meaningful mission statement needs to involve staff at all levels and there may be other, more pressing needs at this time.

IV. PUBLIC HEALTHCARE MANAGEMENT REPORT

FINDINGS

Finding F1

The San Benito County Board of Supervisors is out of compliance with California State Law; specifically the CA Welfare and Institution Code.

Response to Finding F1

The Board of Supervisors disagrees with this Finding.

Although the Finding F1 lacks specificity as there are a multitude of W& I Codes, it is assumed that the Finding relates to WIC Section 5150. Any references in the WIC Section 5150 and related other WIC sections specifically identifying Board of Supervisors (BOS) authority/responsibilities are specific to the authorization of Designated Facilities and BOS appointment of the Local Mental Health Director. It should be noted that the BOS authority to designate facilities does not include Hospitals, such as Hazel Hawkins Hospital. Psychiatric Facility Designation for a Hospital is under the authority of the State Department of Health Care Services, not the County BOS.

The Board of Supervisors is not specifically identified as the entity required by the WIC 5150 that must be the authority that shall authorize individuals or entities to have 5150 implementation authorization. WIC 5607 however specifies that "The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body" (the BOS). Most counties delegate their local Behavioral Health Director as the authority to authorize their staff and often in larger counties additionally their Behavioral Health Department's contract providers, the authority to implement 5150.

Therefore, the Board of Supervisors is in compliance with the Welfare and Institutions code's pertaining to designation of facilities and the appointment of a local director of mental health services. The BH Director has been appointed by the BOS to administer the Behavioral Health Program. The BH Director complies with WIC 5150 laws and regulations, as well as all other applicable state and federal requirements that outline requirements for operating a specialty Behavioral Health system.

Finding F2

No written directive is in place from the County Administration Officer for designation of the county health care professional as required by California State Law (CA WIG paragraph (1) of

subdivision (a) of Section 5150), and which also mandates the BOS certify whom the CAO designates as the county health professional.

Response to Finding F2

The Board of Supervisors disagrees with this Finding.

Specifically, the Board objects to the implied intent of this Finding as written by the Grand Jury. It is the position of the Board of Supervisors that this recommendation erroneously and incorrectly implies that WIC 5150 mandates that the Board of Supervisors and/or the County Administrative Officer (CAO) shall be directly involved as the authorizing authority granting individuals, or entities, the authority to implement WIC 5150 involuntary detention(s)

In fact, WIC 5607 specifies that “The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body” (the Board of Supervisors). In 2001 the BOS, the CAO and members of the Local Mental Health Board appointed the current local Director of Mental Health to administer local mental health services.

Finding F3

A written policy is needed from the BOS to specifically designate the treatment facility to receive WIC 5150 holds in SBC.

Response to Finding F3

The Board of Supervisors disagrees with this Finding.

There is no such treatment facility in San Benito County that can be designated by the Board of Supervisors. It should also be noted that the authority of the Board of Supervisors to designate facilities does not include Hospitals such as Hazel Hawkins Hospital. Psychiatric Facility Designation for a General Hospital is under the authority of the State Department of Health Care Services, not the County BOS.

Finding F4

San Benito County needs a clearly defined program to care for persons that need to be held involuntarily for mental care assessment (5150), through to evaluation and treatment (5151, 5250, and so on.)

Response to Finding F4

The Board of Supervisors disagrees with this Finding.

San Benito County Behavioral Health has a clearly defined system of care for persons detained under 5150. It is a system of care that responds to all persons placed on a 5150 hold that need to be held involuntarily for mental care assessment (5150). The BH Department conducts a mental health assessment, evaluation, and treatment for individuals who are involuntarily

detained under authority of WIC 5150. These processes are clearly defined in BH Department policies and procedures. BH staff are guided by and implement treatment protocols utilizing a full array of available resources. The references per the stated Finding to “5151, 5250, and so on” are not relevant as the 5151 and 5250 processes are required to occur at a designated facility for 72-hour treatment and evaluation. There are no such facilities in San Benito County.

Finding F5

Agencies and departments such as the ED, BH, SB County Jail, LE; all that come into contact with individuals who may need mental health assessment or treatment do not have updated, and consistently relevant to one another's, policies and procedures on file.

Response to Finding F5

The Board of Supervisors disagrees with this Finding.

The Behavioral Health Department does have current policies and procedures regarding individuals who may need mental health assessments or treatment. The Behavioral Health Department has worked in coordination with the County Jail to structure policies and procedures that address individuals who may need mental health assessments, or treatment, and will continue to do so as may be necessary as relevant changes may occur to Title 15 Standards for Local Detention Facilities. BH and Jail staff have also held shared trainings to better understand these policies and procedures and improve collaboration and coordination of services to meet the needs of individuals in the jail.

Finding F6

Conflicting policies and procedures exist with particular reference to 5150 holds among agencies, districts, and SBC departments.

Response to Finding F6

The Board of Supervisors disagrees with this Finding.

As stated, however, in #6 above, the County Behavioral Health Department and the County Sheriff's Department have held shared trainings previously to improve coordination between these two departments. Additionally ongoing dialogue occurs on a regularly scheduled basis pertinent to the management of all jail health services, including mental health services at a regularly scheduled meeting with the jail health care services Quality Improvement Committee.

Finding F7

General communication between departments, agencies and districts are lacking.

Response to Finding F7

The Board of Supervisors disagrees with this Finding.

The Behavioral Health Department leadership and line staff have and continue to communicate often to all other entities that become involved with mental health issues. There is ongoing

communication regarding referrals to BH, on-site treatment, and coordination of psychiatric medications. Many of the entities aforementioned and as related to 5150 issues also attend a number of meetings together, such as the Emergency Services Committee, the Behavioral Health Quality Improvement Committee and the Jail Health Services Quality Improvement Committee, etc.

Finding F8

Negotiated Memorandums of Understanding (MOUs) do not exist for providing mental health care in SBC and between agencies under different boards, county, or state authority

Response to Finding F8

The Board of Supervisors disagrees with this Finding.

There is an MOU in place specific to the duties and responsibilities of the parties to the MOU agreement regarding mental health care. The participating parties to the MOU agreement are the City of Hollister Police Department, Hazel Hawkins Hospital, San Benito County Behavioral Health Services, San Benito County Probation Department and the San Benito County Sheriff's Department. There is also an MOU in place between BH and the San Benito County Sheriff's Department specific to the terms and conditions for access to BH Psychiatrist M.D. services at the County Jail.

Finding F9

The time between initial custodial hold and admission as an inpatient for a person in an involuntary hold under WIC often exceeds 72 hours in SBC, and not infrequently goes beyond a week. Reports indicate that patients are being held waiting in the HHH ED for as long as 14 days for further mental health evaluation and treatment.

Response to Finding F9

The Board of Supervisors disagrees with this Finding.

This Finding is expressed in excessive terms as it refers to "a person in an involuntary hold under WIC often exceeds 72 hours in SBC, and not infrequently goes beyond a week". For example in FY 2015-16, ninety-nine (99) individuals required inpatient psychiatric hospitalization. This calculates into one person admitted every three (3) days. A larger number of individuals were brought to the HHH, ED on a WIC 5150 involuntary detention but were diverted from psychiatric hospitalization (5150 discontinued) after being provided an evaluation and crisis intervention by BH staff.

Note that during 2015/16, only eight (8) individuals remained at the HHH ED for longer than 72 hours. These were individuals served by the BH staff at the HHH, ED while under WIC 5150 involuntary detention that could not be stabilized and released within the initial 72 hours of the 5150 hold. In addition, BH was unable to locate an open psychiatric hospital bed within the first 72 hours of their ED stay. At all times, each individual was assessed to determine if the 5150

criteria were met. When the individual continues to meet the 5150 criteria, it is in the individual's and community's best interest to keep the individual and community safe, by maintaining the involuntary hold until the individual can receive the level of care to meet their acute psychiatric needs.

It should be understood that in an era of rising drug abuse and /or mental illness, along with a statewide shortage of psychiatric hospital beds, that at some time anywhere in California there will be the need to maintain an involuntary hold and protect a mentally unstable individual, as well as protect the public, by utilizing the WIC 5150 detention.

In FY 2015-16, only one person remained in the ED for a 14 day period of time. This unfortunate situation involved an unusual and rare event. The individual had been remanded by the Superior Court to the State Mental Hospital for treatment to regain mental competency to be fit to stand trial for a charge of felony assault on a police officer. The individual subsequently was released by the State Hospital after a 3 year stay after being deemed to be unlikely to ever regain mental competency to stand trial.

As a result, the individual was sent back to the San Benito County Jail and the BH Department asked the jail to facilitate release of the client to allow BH to identify and implement a more appropriate plan of care, including acute psychiatric hospitalization and initiation of a LPS conservatorship and long-term placement in an Institution for Mental Disorder (IMD). This situation required a medical clearance at HHH and identification of an appropriate psychiatric facility to meet this unusual situation. Due to the history of events this individual had accumulated it was difficult to locate an accepting appropriate facility and also complete the required court processes to implement a conservatorship, causing an unexpected length of stay at HHH.

Finding F10

The SBC Behavioral Health Department is writing consecutive WIC 5150s.

Response to Finding F10

The Board of Supervisors agrees this Finding.

The Board of Supervisors agrees that the writing of consecutive WIC 5150's can occur and refers to the previous response, the response to Finding F9 for additional information. It is important to note in the year of 2015-16 that there were eight (8) individuals that were difficult to find an appropriate inpatient facility placement for within the required 72 hours. As a result each individual was re-evaluated and continued to meet the criteria for 5150 detention. San Benito County behavioral health staff implemented the best available options to ensure the individual's safety, as well as the safety of the community.

Finding F11

Patients on a temporary involuntary hold in SBC hold may not know their legal rights under the CA WIC laws of civil commitment.

Response to Finding F11

The Board of Supervisors agrees with this Finding.

The Board agrees that conditions could exist that could compromise an individual's ability to know their legal rights under the "CA WIC laws of civil commitment". Individuals that are found to be appropriate for involuntary detention under WIC 5150 are commonly experiencing a level of serious mental instability that compromises their ability to understand and provide informed consent. Additionally it should be understood that BH staff are rarely the first responding staff that will take the person into custody because most WIC 5150 detentions are initiated by law enforcement during an encounter in the field. In such instances, law enforcement staff would be responsible for providing the individual at the time they are taken into custody, the required advisement as per WIC 5157.

"WIC 5157- Information to be given person taken into custody" "(a) Each person, at the time he or she is first taken into custody under provisions of Section 5150, shall be provided, by the person who takes such other person into custody", "the required information as outlined in summary in the requirements of WIC-5157".

A less frequent situation involves the BH staff as the 'first responder' implementing the WIC 5150 involuntary detention. In such circumstances the BH staff will provide the same advisement as would a detaining law enforcement officer.

It should also be understood that WIC 5157 identifies a separate and different requirement for informing clients of their rights when a person is detained under WIC 5150 and after they are "admitted to a designated facility for 72-hour evaluation and treatment." Those particular rights and informing processes are required to be administered by admission staff at the designated treatment facility. The HHH ED is not a Designated Facility for evaluation and treatment so it should not be confused that the Patient Rights Informing Processes required at a designated facility are the same and relevant to a general hospital ED. When the individual is admitted to an available designated psychiatric facility, the staff at that designated facility is mandated to inform the individual of a more detailed list of their rights as relevant to a psychiatric hospital stay.

Finding F12

There is a possible violation of Patient's Rights when under a temporary involuntary hold in SBC being violated, under the CA WIC laws of civil commitment.

Response to Finding F12

The Board of Supervisors disagrees with this Finding.

The Grand Jury Finding is made in the context of “a possible violation of Patients’ Rights”. The Board of Supervisors is certain, however, that the BH Department has not violated Patient Rights under the CA WIC laws of civil commitment.

Finding F13

The HHH ED staff is using a pamphlet derived from Santa Cruz County to distribute to patients on WIC 5150 holds about their civil rights.

Response to Finding F13

The Board of Supervisors disagrees with this Finding.

The Board has no further response beyond other than that the Finding is based on a statement alluding to a practice within the purview of the HHH ED and the information that HHH has decided their staff should distribute.

Finding F14

The HHH ED staff may be releasing WIC 5150 hold patients that exceed 72 hours due to concerns about violations of patient's rights.

Response to Finding F14

The Board of Supervisors partially disagrees with this Finding.

The Board of Supervisors agrees that the BH Department is aware of one incident that occurred that involved HHH ED staff releasing an individual under WIC 5150 hold because of a concern expressed by HHH that 72 hours had elapsed while the individual was under 5150 hold and there were concerns about violations of patient's rights. The BH Department initiated discussions with HHH about such practice, including the issue of EMTALA violations and the risk to the safety of the individual and issues of public safety if this continued to occur as a practice. HHH agreed to abandon this protocol.

Finding F15

BH does not have official authorization or paperwork from any authority to support the claim that they may stack 5150s.

Response to Finding F15

The Board of Supervisors partially disagrees with this Finding.

The Board of Supervisors agrees that the Behavioral Health Department does not have official sanction or paperwork from any authority that prohibits said department from implementing a 5150 detention when a client meets the required criteria as presenting as a danger to self, or

others, or gravely disabled as a result of a mental disorder and the clients mental state has not been stabilized or an available psychiatric inpatient hospital bed has not yet been found. The Behavioral Health program has policies and procedures to ensure an individual's safety, as well as the safety of the community. Issues of safety are the highest priority, regardless of the availability of a psychiatric inpatient bed in the region on a specific time and day.

Finding F16

There is a lack of adequate county psychiatric health facilities, crisis centers, and/or inpatient psychiatric beds based upon the previous, current, and the rapidly growing SBC population

Response to Finding F16

The Board of Supervisors partially disagrees with this Finding.

The grand jury Finding is correct in identifying that there may be during times of need a shortage of adequate psychiatric inpatient bed availability. It should be noted, however, that this issue is not just specific to San Benito County, but is experienced throughout the state. It should also be noted that based upon current utilization of psychiatric hospital services, approximately 693 bed days were used in FY 15/16 by the 99 SBC residents who were psychiatrically hospitalized (with an average length of stay of 7 days). If SBC builds and staffs a 16 bed Psychiatric Health Facility, only two of the 16 beds (693/5,840 bed days) would be needed by SBC. This would require filling the empty 5,147 bed days with persons from other counties. There are wealthier counties surrounding San Benito County that also experience a shortage of psychiatric bed availability. Discussion has occurred with the behavioral health directors of some of our neighbor counties and it is clear that because of the low utilization rate for San Benito County, our contribution to a regional psychiatric facility would be fractional compared to the amount of funding that our neighbor counties would need to contribute based on their utilization. It would be more prudent for one of our wealthier neighbor counties to build or add additional psychiatric bed capacity to one of their already existing facilities.

Finding F17

Mental health patients may have to wait a long time to be medically cleared.

Response to Finding F17

The Board of Supervisors disagrees with this Finding.

The Board of Supervisors has no control or jurisdiction over the processes involved with an individual receiving medical clearance from HHH. It is the experience of the BOS that the HHH ED staff utilizes a triage protocol and responds as quickly as possible, depending upon the severity of other presenting problems at any time in the ED.

Finding F18

Mental health patients who come in, or are brought in, consecutively to the HHH ED may 'backup' in the ED while waiting for medical clearance and assessment.

Response to Finding F18

The Board of Supervisors disagrees with this Finding.

The Board of Supervisors has no control or jurisdiction over decisions made by ED physicians regarding the cases that they prioritize for immediate medical attention. Physical medicine processes involved with an individual receiving medical clearance are not within the purview of the BOS. There are many factors that contribute to ED work load and priority triaging as the nature of an ED is that workload ebbs and flows depending on urgency of care needs for many different patients requiring urgent or emergency level of care needs.

Finding F19

Healthcare and security manpower requirements at HHH increase when monitoring and holding an individual on a WIC 5150 involuntary hold, and increase at a more rapid rate when exceeding the allowed 72 hours.

Response to Finding F19

The Board of Supervisors disagrees with this Finding.

This may be the opinion of the Grand Jury, however, the Board of Supervisors has no control or jurisdiction over the processes involved with HHH security staffing. It should be noted, however, that many individuals with acute mental health conditions stabilize as time passes and particularly if the etiology of their mental agitation is due to substance abuse.

Finding F20

A backlog of individuals on a WIC 5150 involuntary hold results in mental health patients in the ED with no place to wait creates general HHH ED crowding, financial, and security risks.

Response to Finding F20

The Board of Supervisors disagrees with this Finding.

This may be the opinion of the Grand Jury, however, the Board of Supervisors has no control or jurisdiction over management of HHH ED operations/logistics management, or the ability to control how and when individuals may be admitted to the ED for a variety of conditions, including acute physical health care needs and individuals admitted to the ED, while under WIC 5150 involuntary detention.

Finding F21

The ED can be holding multiple psychiatric patients in ED beds, creating a longer wait time for medical treatment for other types of ED patients.

Response to Finding F21

The Board of Supervisors disagrees with this Finding.

The Board of Supervisors assumes that a serious or life threatening medical condition would move to the front of the list for providing medical care in the ED, as opposed to prioritizing a

medical clearance for an individual in a nonlife threatening condition. The BOS has no control or jurisdiction over management of HHH ED operations/logistics management or the ability to control how many individuals may be admitted for a variety of reasons to the HHH ED, including individuals that may be under WIC 5150 involuntary detention.

Finding F22

HHH or the HHH Emergency Department or does not have a psychiatrist on staff.

Response to Finding F22

The Board of Supervisors disagrees with this Finding.

The Board of Supervisors has no control or jurisdiction over HHH and their recruitment of MD's to the community, including the specialist category of Psychiatrist, MD.

Finding F23

The San Benito Health Care District, Board of Directors, is not involved enough in the oversight and disposition of HHH ED individuals in a WIC 5150 temporary involuntary hold and persons needing mental health care assessment, evaluation, and treatment or transfer.

Response to Finding F23

The Board of Supervisors disagrees with this Finding.

This may be the opinion of the Grand Jury, however, the Board of Supervisors has no authority or jurisdiction over the San Benito Health Care District, Board of Directors.

Finding F24

The Mayor of Hollister and City Council of Hollister are not systematically involved in the impact Hollister residents experience from a limited mental health program and dysfunction of the communications and protocols among the agencies.

Response to Finding F24

The Board of Supervisors disagrees with this Finding.

This may be the opinion of the Grand Jury; however, the Board of Supervisors has no control or jurisdiction over the Mayor of Hollister and City Council of Hollister.

Finding F25

Jail psychiatric support is lacking.

Response to Finding F25

The Board of Supervisors agrees with this Finding.

We can all agree that there is always "room for improvement". The Behavioral Health Department, however, for many years has and continues to provide the required level of mental health services to allow the jail to be in compliance with their Title 15 Jail Care and Custody mandates for mental health services. It is a tremendous burden for the Behavioral Health

Department to meet the jail's Title 15 mental health care requirements. While expanding care to levels beyond the mandates is desirable, it is not feasible for the Behavioral Health Department to provide. It should be understood that Jail mental health services are not a service that the Behavioral Health Department is mandated to provide (many jails purchase the services through private providers). Just as it is the Jail's mandate to meet their requirements, the Behavioral Health Department also must fulfill its own many services and administrative mandates that are requirements for Behavioral Health Departments by their oversight entity, the State Department of Health Care Services. In spite of these challenges SBCBH has always delivered clinical evaluation/assessment and psychiatric medication management services in the jail and has provided training to jail staff to improve coordination of referrals and delivery of services.

Finding F26

Correctly updated written SBC Jail policies and procedures in Section 609 are not possible in the current climate of a broken mental health care program in SBC.

Response to Finding F26

The Board of Supervisors partially disagrees with this Finding.

It should be understood that it is the preferred option that when a Behavioral Health Clinician is requested to implement a Crisis Assessment at the jail that one of the options to implement when necessary is to recommend that the jail implement the process known as 4011.6. Current Behavioral Health Department Jail policy and procedures reflect the option for a mental health clinician to implement the 4011.6 option which is as follows from the Welfare and Institutions Code.

"§ 4011.6. Treatment and evaluation of prisoner; notice; confidential reports; remand to facility; effect on sentence. In any case in which it appears to the person in charge of a county jail, city jail, or juvenile detention facility, or to any judge of a court in the county in which the jail or juvenile detention facility is located, that a person in custody in that jail or juvenile detention facility maybe mentally disordered, he or she may cause the prisoner to be taken to a facility for 72-hour treatment and evaluation pursuant to Section 5150 of the Welfare and Institutions Code."

The Board of Supervisors believes that there are impediments to exercising this option and they are that psychiatric hospital beds are difficult to find and even more so for an in-custody jail inmate. It should also be noted that the jail has been reluctant to provide the time for jail staff to provide supervision for the duration of the inmate's hospital stay (as required by any inpatient psychiatric hospital that accepts an "in custody" inmate for admission). The BOS is willing to identify any available psychiatric hospital provider options that might exist for psychiatric hospitalization of "in custody" jail inmates under the 4011.6 option.

Finding F27

BH providing one-way directives to the Jail or other agencies such as LE or HHH ED that significantly impact the other's resources is not appropriate nor in the best interest of the SBC mental health care system.

Response to Finding F27

The Board of Supervisors disagrees with the Finding.

The BOS is unaware of specific incidents of what the Grand Jury deems as "one way directives". It is assumed, however, that if one party Disagrees with another, that dialogue no doubt occurs. Upon concluding the discussion if the answer is "No, I can't do that and for these legitimate reasons" that process of discussion is not "one way directives". People often agree to disagree even when one party will not achieve the response that benefits them.

SBCBH strives to meet all state and federal regulations regarding the needs of persons with a Serious Mental Illness and/or those in crisis. Meeting the needs of these individuals may impact other agency's resources. Each organization is mandated to deliver services within their scope of practice and mandated responsibilities, as outlined by state and federal regulations.

Finding F28

The current BH policy incurring significant limits to the Jail staff in making calls to clinicians AND the expanded timeframe the Jail staff endures while waiting for clinicians to arrive at the Jail for assessment has had a substantially negative impact on the Jail.

Response to Finding F28

The Board of Supervisors disagrees with this Finding.

The current timeframes for BH response for jail mental health care exceed required Title 15 standards for mental health care for inmates. BH is not responsible for jail staffing patterns and meeting their mandated requirements for the frequency of the jail staff's supervision of inmates. As noted in F5, the Behavioral Health Department has current policies and procedures regarding individuals who may need mental health assessments or treatment. The Behavioral Health Department has worked in coordination with the County Jail on the structuring these policies and procedures regarding individuals who may need mental health assessments, or medication treatment.

Finding F29

Our local government is not considering the strain placed on County Jail Correctional Officers at the SBC Jail due to BH policies, and HHH limitations or as part of a comprehensive SBC mental health care program.

Response to Finding F29

The Board of Supervisors disagrees with this Finding.

The Board of Supervisors does not make decisions for all local governments. When multiple systems within the County are incurring a level of stress related to 5150 detentions and the need to have access to available psychiatric hospital beds it is not due to the unwillingness of the County and other involved entities to implement a solution but rather the inability to have the resources to implement the resolution (Build and operate a Psych. Hospital). It must be recognized that San Benito County's experience with people requiring psychiatric hospitals is not unlike most other counties in the state who do not have psychiatric hospital resources within their County. It should be further said that even the counties throughout the state that have psychiatric hospitals also experience the shortage of adequate psychiatric hospital bed availability, such as Los Angeles County, etc. The Behavioral Health Department has current policies and procedures regarding individuals who may need mental health assessments or treatment at the Jail and HHH. The Behavioral Health Department has worked in coordination with the County Jail on structuring policies and procedures regarding individuals who may need mental health assessments, or medication treatment.

Finding F30

Inmates are waiting in a safety cell for a mental health assessment for too long.

Response to Finding F30

The Board of Supervisors disagrees with this Finding.

Jail staff follows jail protocols for placing an inmate in a safety cell and the frequency of their supervision of the safety cell as required by Title 15 standards. BH staff responds to requests for a mental health assessment in a timely manner, as per the standards of Title 15. The terminology "too long" is a subjective term used by the Grand Jury and does not reflect the requirements as stated in Title 15 documentation for the duration of time that a mental health assessment must occur within.

Finding F31

Requiring Jail Corrections Officers to conduct 15-minute checks to the Jail's Safety Cell on an extended basis while waiting for mental health clinicians to perform a mental health assessment is unacceptable.

Response to Finding F31

The Board of Supervisors disagrees with this Finding.

The Board of Supervisors has no control, or jurisdiction, over the Title 15 mandates for detention facility staff requirements for frequency of safety cell checks. BH is challenged to meet the Title 15 standards for provision of mental health care in the Jail but does so and meets and sometimes exceeds the existing Title 15 standards of care. Exceeding the requirements of Title

15 is not a mandate and also, with respect to BH resources, it is not feasible for BH to exceed mandated requirements.

Finding F32

Transportation logistics are inadequate. Obtaining and funding the appropriate type of transportation for mental health patients to other facilities with an available bed is problematic.

Response to Finding F32

The Board of Supervisors partially disagrees with this Finding.

Respondent has procured a contract provider to provide medical related transportation virtually on-demand if necessary. The BOS does not control transportation provider choices made when the HHH ED implement their EMTALA required transfer of a client still requiring acute emergency services (which include psychiatric care) to a facility that can provide the care that HHH does not provide. The Respondent is aware that the HHH ED has procured a contract provider that has access to a variety of ambulance transport providers. The transportation delays that had at one time existed when the hospital was dependent on a sole provider source (AMR Ambulance Company) seem to have improved substantially.

Finding F34

Inmates are not provided with an adequate facility per Title 15 to accommodate psychiatric evaluation and treatment.

Response to Finding F34

The Board of Supervisors disagrees with this Finding.

The Board of Supervisors, however, in discussion with BH staff has not been apprised of any issues related to BH staff concerns about adequate jail facility space to accommodate their work performed at the jail facility.

Finding F33

There is no established, dedicated, and collaborative committee to confer and formulate solutions under BOS oversight to remedy current mental health care problems and to explore the future mental healthcare needs of the county.

Response to Finding F33

The Board of Supervisors disagrees with this Finding.

There a number of collaborative committees in the County that discuss these types of issues such as the Emergency Services Committee, the Behavioral Health Quality Improvement Committee and the Jail Health Services Quality Improvement Committee, etc. BOS opines that whenever multiple systems within the County are incurring a level of stress related to 5150 detentions and the need to have access to available psychiatric hospital beds, it is not due to the

unwillingness of the County and other involved entities to implement a solution but rather the inability to have the resources to implement the resolution (Build and operate a Psych. Hospital). It must be recognized that San Benito County's experience with people requiring psychiatric hospitals is not unlike most other counties in the state who do not have psychiatric hospital resources within the County. It should be further said that even the counties throughout the state that have psychiatric hospitals also experience the shortage of adequate psychiatric hospital bed availability, such as Los Angeles County, etc.

Finding F35

SBC Law Enforcement and HPD LE are out of compliance with WIC 5150 by not transporting persons placed under involuntary hold to a facility where the person may receive a mental health evaluation.

Response to Finding F35

The Board of Supervisors disagrees with the Finding.

When the Lanterman Petris Short Act created Welfare and Institutions Code 5150 in 1967, it was never perceived that there would be a shortage of available access to designated facilities psychiatric hospital beds. SBC Law Enforcement and HPD LE today would find that a designated psychiatric facility would first require a medical clearance before considering an individual under 5150 detention for admission to their facility, which means an admission at the HHH, ED. Additionally SBC Law Enforcement and HPD LE would likely incur problems in locating a designated facility that would have a psychiatric bed available on demand. Such a facility if found would also require transporting out of the County. It should also be noted that the 5150 statute as pertains to the references made by the Grand Jury states,

***"may,** upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation."*

Any references in statute using the term May, conveys the option to make a choice as opposed to a mandate which is conveyed in statute in terms of Shall or Must.

Finding F36

SBC government does not have an area set aside to construct the augmented infrastructure needed for a psychiatric treatment facility.

Response to Finding F36

The Board of Supervisors agrees with this Finding.

The construction and funding of a psychiatric treatment facility is not financially feasible and there is no utilization volume justification for a facility in San Benito County. It would be a multi-

million dollar liability for the county. See response to Finding F16. It should be noted that based upon current utilization of psychiatric hospital services, approximately 693 bed days were used in FY 15/16 by the 99 SBC residents who were psychiatrically hospitalized (with an average length of stay of 7 days). If SBC builds and staffs a 16 bed Psychiatric Health Facility, on average only two of the 16 beds (693/5,840 bed days) would be needed by SBC. The financial costs of building and staffing a PHF would be prohibitive with this low census. This financial burden would be incurred by the BOS and general funds.

Finding F37

COG has not considered SBC LTA as an option for transportation in a comprehensive mental health care program or a temporary solution in the shortfall of transportation logistics in SBC for mental health care patients.

Response to Finding F37

The Board of Supervisors disagrees with this Finding.

Respondent has procured a contract provider to provide medical transportation to psychiatric Hospitals virtually on-demand if necessary. The Respondent does not control transportation provider choices made when the HHH ED implement their EMTALA required transfer of a client still requiring acute emergency services (which include psychiatric care) to a facility that can provide the care that HHH does not provide. The BOS is aware that the HHH ED has procured a contract provider that has access to a variety of ambulance transport providers. The transportation delays that had at one time existed when the hospital was dependent on a sole provider source (AMR Ambulance Company) seem to have improved substantially. COG and the SBC LTA provide local bus transportation to the Behavioral Health outpatient clinic for individuals seeking voluntary care.

RECOMMENDATIONS

Recommendation R1

F1, F2, F3, F4. The BOS should review Division 5 of the CA Welfare and Institutions Code (CA W&I).

Response to Recommendation R1

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors and the County Administration Office have made good faith effort to address service and policy concerns to the best of their ability given the financial constraints placed upon the Behavioral Health Department by existing unfunded state mandates and legislative changes enacted the California State Legislature.

Given that the County acts largely as an agent of the state in dissemination of programs and services related to mental health, corresponding financial resources to address matters related to the availability of appropriate facilities, service scopes and personnel is largely a matter of state concern over which the County has little control. Nevertheless, the County will continue to press state and federal legislative representatives for additional funding, support and assistance.

Recommendation R2

F1, F2, F3, F10-12, F14, F23, F35. The BOS should make the appropriate designations for both the SBC Mental Health Director and the treatment facility to receive SBC 5150 holds made by LE. Each designation should be official and produced by the BOS in writing. If the facility designated by the BOS is under San Benito Health Care District, Board of Directors (i.e. HHH) management, then both Boards should take note that HHH is not a licensed facility for evaluation or treatment of patients placed in a temporary involuntary hold for mental health reasons. The BOS should be aware that the result of designating HHH as the treatment facility may be to direct LE out of CA WIC compliance, and may result in patient's rights infringement *by exceeding 72-hour limits while attempting to deliver patient care.*

Response to Recommendation R2

This recommendation will not be implemented because it is not warranted.

It should be recognized that the Board of Supervisors authority to designate facilities does not include general medical Hospitals, such as Hazel Hawkins Hospital. Psychiatric Facility Designation for a general medical Hospital is under the authority of the State Department of Health Care Services, not the County Board of Supervisors.

Recommendation R3

F1, F4. The BOS should provide a detailed plan of action indicating steps and initiatives taken in the public interest that put SBC in compliance with Division 5 of the California Welfare and Institutions Code and augments mental health care in SBC. This plan of action should be made in response to this investigation and submitted to the public in time for a review for continuity by the SBC Civil Grand Jury 2016-17.

Response to Recommendation R3

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors does not agree with the premise of this recommendation as SBC is in compliance with Division 5 of the California Welfare and Institutions Code. To the best of its knowledge, the County has not received any notices of non-compliance as inferred by the findings made by the Grand Jury.

Recommendation R4

F1, F4. The BOS should research and confer with BH to effectively get the attention of the State of CA to provide immediate resources to SBC for psychiatric mental health care assistance.

Response to Recommendation R4

This recommendation will not be implemented because it is not warranted.

The Board advises that if this recommendation were actually implemented, it would be largely a redundant exercise and a waste of scarce administrative resources that could be more efficiently directed elsewhere. The State Department of Health Care Services, County Behavioral Health Departments throughout the State, the California Hospital Association, the California Behavioral Health Directors Association and many other mental health advocacy groups are all aware that there is a shortage of Psychiatric Hospitals. When the member hospitals of the California Hospital Association made a calculated, fiscally-driven decision to get out of the psychiatric hospital business this decision eventually culminated in a shortage of available acute psychiatric hospital beds.

Recommendation R5

F5, F23, F24. LE and HHH ED should begin regularly providing data available to the BOS to track the number of WIC 5150 cases brought to the ED, and the disposition of each one, including total length of stay.

Response to Recommendation R5

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors does not delegate to the HHH, ED and LE the type of data that each shall maintain, nor to whom they distribute it.

Recommendation R6

F5, F23, F24. HHH and BH ensure that LE receives information about all WIC 5150 individuals that released without further evaluation.

Response to Recommendation R6

This recommendation will be implemented within the next six months to the extent possible given scarce budgetary resources.

The Board of Supervisors agrees that LE should be informed when an individual is released from a 5150, if the legal conditions are met to communicate the information as allowable per the W&I Code. It should be noted that the HHH ED is not a designated facility. As per the W&I Code 5152.1, the professional person in charge of the facility (Meaning Designated facility, such as a Psychiatric Inpatient Hospital) providing 72-hour evaluation and treatment, or his or her designee, shall notify the peace officer who makes the written application, pursuant to Section 5150, or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72-hour detention, when the person is not detained, or when the person is released before the full period of allowable 72-hour detention, if all of the following conditions apply:

- (a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint. The notice is limited to the person's name, address, date of admission for 72-hour evaluation and treatment, and date of release.*

All State issued 5150 Detention Documents used by the County LE and SBCBH currently include the section on the 5150 form titled, "Notifications to Be Provided to Law Enforcement Agency" with corresponding required text.

Recommendation R7

F4, F5, F6, F23, F24. As a result of collaboration, ALL agencies, and departments that come into contact with those whom may need mental health assessment or treatment should have relevant policies and procedures updated and relevant to one another's on file and shared with other agencies to minimize procedural conflict.

Response to Recommendation R7

This recommendation will be implemented within the next six months given scarce budgetary resources.

It is further noted, the Behavioral Health Department has existing written Policies and Procedures for mental health assessment and treatment. The Behavioral Health Department has previously provided, on request, and will continue to cooperate in providing Behavioral

Health Department Policies and Procedures when requested by agencies, and departments that come into contact with those whom may need mental health assessment or treatment.

Recommendation R8

F4, F6, F7, F23. The LE, ED and BH Departments and the Jail are key relationships to one another. Policies and procedures between these agencies should be made with particular attention and supported with a close oversight of the BOS that reflects these dependencies to ensure mental health care program efficiency and success.

Response to Recommendation R8

This recommendation has been implemented.

The Behavioral Health Department, however, has existing written Policies and Procedures for mental health assessment and treatment and specifically as pertains to Behavioral Health Department operations and interface with the Jail, LE, and ED.

Recommendation R9

F1, F4, F5, F6, F7, F23. Collaborative effort should begin immediately from all parties for the health and welfare of SBC.

Response to Recommendation R9

This recommendation has been implemented.

The Board of Supervisors believes this recommendation has already been implemented as this recommendation is fulfilled to the extent realistically and legally possible. The Behavioral Health Department provides and coordinates the provision of mental health care for the Jail, and an extensive level of coordination and interface occurs with ED, when patients requiring mental health services at various levels are admitted to the ED. The Behavioral Health Department is also a regular participant in regularly scheduled Jail Health Care Quality Improvement meetings. The Behavioral Health Department also regularly hosts a Quality Improvement Committee meeting and various stakeholders attend, including Jail Staff, Juvenile Hall, and the HHH representation has been invited. They attend when their schedules allow. The Behavioral Health Department is also participating in the County Emergency Services Committee meetings.

Recommendation R10

F4, F7, F8, F23. SBC BOS establish clear Memorandums of Understanding (MOUs) written by and for the involved agencies, districts that have a separate board, and counties, (i.e. those not operating under the SBC BOS direct authority) to determine and establish agreement upon, and compliance with, local protocol. Also, that the BOS effect policy to maintain these MOUs until superseded by subsequently negotiated agreements.

Response to Recommendation R10

This recommendation has been implemented.

The Behavioral Health Department does have an MOU with HHH, HPD, and Sheriff, specific to the issue of 5150 client management. BH also has an MOU with the jail specific to the terms and conditions for utilization of Behavioral Health Psychiatrist, MD services.

Recommendation R11

F1, F4, F10, F11, F12, F14, F23. "Stacking" 5150 holds is bad practice, and may be in violation of CA law. SBC should cease taking liberties with CA legislation concerning persons placed on 5150 holds. All methods available to agencies and departments should be implemented to attempt not to exceed the 72-hour maximum elapsed time from when the hold is initiated by LE, or otherwise, until the point of completed disposition of the patient.

Response to Recommendation R11

This recommendation has been implemented.

There were a total of eight (8) individuals during 2015-16 served by the BH staff at the HHH, ED while under WIC 5150 involuntary detention that could not be stabilized and released from the 5150 hold, and BH staff could not find an open psychiatric hospital bed within the first 72 hours of their ED stay. It is an exaggeration to express that the Behavioral Health Department implements a "practice" of "stacking" 5150 holds. It should be understood that in an era of rising drug abuse and /or mental illness, and a shortage of psychiatric hospital beds, that at some time anywhere in California there will be the need to protect mentally unstable individuals and the public by utilizing the WIC 5150 involuntary detention.

Recommendation R12

F1, F4, F10, F11, F12, F14. F15. BH should not look for, or be compelled to find, creative ways to circumvent the law to extend the 5150 72-hour hold due to SBC's lack of psychiatric treatment resources. BH should not "fudge the start time of the 5150 hold" nor argue that the start time or "hold lift time" is ambiguous. BH's good intention is clear, but working with the BOS to gain the facilities for an outstanding mental health program is optimal. Anything else may be counterproductive to achieving a long-term viable and quality program in SBC. If SBC BH does obtain written official temporary authorization to stack 5150s from the state, SBC should still employ a more strict 5150 72 hold time, and county agencies work together to increase our quality of mental health care under this time constraint. If BH obtains formal approval to stack 5150s given our dire lack of resources, BH's use of the temporary waiver should be done so understanding that it to be used in parallel to a dedicated lobby for establishment and implementation of permanent solutions for SBC.

Response to Recommendation R12

This recommendation will not be implemented because it is not reasonable.

The Board of Supervisors does not agree with this recommendation. The Behavioral Health Department is not "utilizing creative ways to circumvent the law". The 5150 law does not

clearly state when the 72 hour clock starts. For example, does it start when the 5150 Form (Titled, Application For Assessment Evaluation And Crisis Intervention Or Placement For Evaluation and Treatment) is filled out or when the individual under 5150 custody is actually admitted to a designated Psychiatric Hospital facility. The 5150 law also does not state when another 5150 may be written, five minutes, five hours, five days? What should BH do when a bed will not be promptly found in a designated psychiatric hospital for a patient still meeting the criteria to be held on a 5150 detention? A recent poll of mental health directors found that about half consider the start time for the 72 hour clock to be the time that the involuntary detention begins (when the 5150 is written by law enforcement, or written by another person who has the authority to detain a person based on probable cause to that they are a Danger To Self, Danger to Others, or Gravely Disabled, as stated in 5150). The other half of the directors believe the 72 hour clock starts upon admission into a designated, locked inpatient facility (as stated in W&I Code 5150). BH staff's highest priority is to ensure that the needs of the individual are met as quickly as possible and that client and public safety are ensured.

Recommendation R13

F9, F10. Recommended that SBC adopt a model such as Monterey County to consider weekends and holidays as part of the 72-hour period of a 5150 hold regardless of SEIU bargaining demands.

Response to Recommendation R13

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors does not agree with this recommendation as it is based on an erroneous interpretation of W&I Code 5150 and will not implement this recommendation. It should be understood that the application for this type of waiver applies only to Designated Inpatient Acute Psychiatric Facilities. The waiver application authorization approval is granted by the State Department of Health Care Services. Including weekends and holidays in time accrued to the 72 hour hold period can only be applicable to inpatient psychiatric facilities such as, for example, the Natividad Psychiatric Hospital unit in Monterey County.

Recommendation R14

F1, F4, F10, F12, F23, F32. Both the ED and BH should be responsible for researching and locate bed availability to transfer 5150 persons who will not receive needed care in SBC. Both departments should be held equally accountable for delays or wait time in the 72 hours to research and find a bed. This policy should be written in a formalized protocol and enforced by the BOS in oversight of the county mental health care program.

Response to Recommendation R14

This recommendation will be implemented within the next six months contingent upon the availability of budgetary resources provided by the State of California.

The Board of Supervisors agrees partially with this recommendation as a protocol has already been implemented. Both the BH and ED are working in coordination to locate psychiatric bed availability for individuals under 5150 detention that require further psychiatric inpatient care. It would be redundant to have the BOS involved in a process that is already implemented.

Recommendation R15

F1, F10, F11, F12, F14, F15, F23. If individuals object to being involuntarily held during or beyond the 72 hours on a 5150 hold, then the use of the patient's legal rights to judicial review (filing a writ of habeas corpus) process should be brought (again) to the patient's attention by the ED staff. In particular, when medical clearance has processed but a BH assessment is not complete. That is, according to WIC the patient may be reminded that: "If held longer than 72 hours, you have the right to a lawyer and a qualified interpreter and a hearing before a judge. If you are unable to pay for the lawyer, then one will be provided to you free of charge." Notification by the individual to the County Public Defender's office or any other attorney should not be interfered with or discouraged. The individual may also be reminded that if demanding a writ of habeas corpus, the decision whether to file it lies solely with the SBC Public Defender.

Response to Recommendation R15

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors does not agree with this recommendation. The Board of Supervisors is currently in compliance with existing laws and regulations related to implementation of the WIC 5150. It would not be feasible, nor practical, to layer additional and non-mandated processes onto this process. It would also be inappropriate to include clients who are in a compromised mental state in any additional processes that are unnecessary.

Additionally it is the BOS's observation that the Grand Jury recommendation is based on an erroneous interpretation of a legal writ hearing that is mandated to occur after an individual under 5150 detention has been admitted to a designated psychiatric facility and is about to have their 72 hour hold expire and the facility is considering the implementation of a 14 day certification (otherwise known as a 14 Day Cert. Hearing) that would extend the individuals psychiatric hospitalization for additional time and treatment.

Recommendation R16

F1, F4, F11, F12, F13, F23. The San Benito Health Care District in conjunction with BH and the BOS should develop its own, customized, patient's rights pamphlet to distribute to individuals on a WIC 5150 hold in the ED instead of using what was prepared specifically for Santa Cruz County.

Response to Recommendation R16

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors does not agree with this recommendation and will not implement, as the Board of Supervisors does not have authority over the activities of the San Benito Health Care District and specifically the written materials that they choose to distribute to patients admitted to their ED. The State Department of Health Care Services/ Mental Health Division (DHCS) require County Mental Health Departments to provide client access to patient rights advocacy services. The Behavioral Health Department fulfills the mandated requirement through a contract with Advocacy, Inc. to provide patient's rights services at our contracted hospitals, and outpatient programs, on our behalf to assure protection of our client's rights, advisement on legal questions pertaining to mental health (MH) regulations, and assistance for clients filing complaints regarding care we provide either directly or through our contracted providers. The Behavioral Health Department has contracted with Advocacy Inc. since 1989.

Recommendation R17

F1, F14, F18, F23, F24. The HHH ED should cease developing plans to release individuals in need of psychiatric care by "lifting the hold" on WIC 5150s. Any authorization for the ED to use this type of protocol should be made as a result of the SBHCD Board of Directors and the SBC BOS joint approval following multi- departmental, agency, and district collaborations held with The Director, Behavioral Health. When any release is made, LE is to be notified immediately.

Response to Recommendation R17

This recommendation will be implemented within the next six months contingent upon available budgetary resources provided by the State of California.

The Board of Supervisors is in partial agreement with this recommendation as the BOS believes that the HHH ED should not eject clients from the ED if the individual meets the criteria to be held on 5150 hold and is waiting for a facility to receive the appropriate level of care that HHH will not provide. Such actions if implemented by the HHH ED would constitute a violation of the emergency medical treatment and active labor act (EMTALA), otherwise known as the anti-patient dumping statute. The BOS does not recommend, and will not implement, any action that would endorse, or appear to legitimize, a practice of ejecting clients from the ED who meet the criteria to be held on 5150 hold and who require a level of care that the HHH will not provide and require transfer of the individual to a facility that can provide the appropriate level of care.

Recommendation R18

F1, F4, F9, F10, F11, F12, F13, F14, F15. Request immediate assistance from the State of CA, Department of Health and Human Services, before SBC has legal issues regarding patients' civil rights for involuntary detainment beyond the 5150 72-hour holds; and failing to admit a patient

for evaluation and treatment because SBC does not have a necessary psychiatric treatment facility.

Response to Recommendation R18

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors does not agree with, and will not implement, this recommendation as the State Department of Health Care Services is well aware that counties throughout California are challenged to find resources for on demand availability of psychiatric acute inpatient hospital beds. The BOS is not violating any laws or regulations and there is no mandate that a county is required to operate an inpatient psychiatric treatment facility.

Recommendation R19

F1, F4, F5, F6, F7, F8, F14, F23, F24. Recommend preparation of negotiated agreements among the agencies that share the responsibility of WIC Division 5 management and agreement should include confidentiality in ARTICLE 7. Legal and Civil Rights of Persons Involuntarily Detained [WIG 5325 - 5337] especially Section 5328. This agreement should be established within the meaning of California Civil Code so that one agency may not unilaterally change established procedures which affect any other agency without a new negotiated agreement among the agencies.

Response to Recommendation R19

This recommendation will not be implemented because it is not reasonable.

The Board of Supervisors is unable to respond to this recommendation due to lack of clarity and specificity of the recommendation. For example, recommended with emphasis “especially Section 5328”. The Board of Supervisors finds WIC 5328 as a reference to Confidential Information and records: disclosure; consent. It is not clear how this applies as a recommendation.

Recommendation R20

F17, F19, F23. As the designated treatment facility, HHH should provide resources to medically clear 5150 hold patients as soon as possible.

Response to Recommendation R20

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors Disagrees with this recommendation, but notes that implementation would be a decision of the HHH Board of Directors. HHH is not a designated facility. The BOS has no authority over HHH and how HHH prioritizes service delivery for the variety of cases that the ER must provide care. The BOS believes that HHH competently makes priority decisions regarding cases that require the most urgent medical attention.

Recommendation R21

F16, F18, F23, F35. HHH should consider setting up a licensed inpatient area and move 5150s to 5151s for an added 72 hours of evaluation for treatment - then, if necessary, transfer the patient.

Response to Recommendation R21

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors is not responsible for decisions on the allocation of HHH resources.

Recommendation R22

F17, F18 F19 F20, F21, F22, F23, F35. HHH should consider becoming a licensed psychiatric facility with 7 to 10 beds to help alleviate problematic county mental health issues.

Response to Recommendation R22

This recommendation will not be implemented because it is not reasonable.

The Board of Supervisors is not responsible for decisions on the allocation of HHH resources. The Board of Supervisors, however, opines that if many hospitals that once operated psychiatric inpatient units, have closed these units due to fiscal unsustainability, it would seem unlikely that HHH would determine that it is financially feasible to develop a psychiatric facility.

Recommendation R23

F1, F17, F18 F19 F20, F21, F22, F23. It is recommended to take pressure off of the ED and BH clinicians by SBC Finding at least ten beds for psychiatric care. The SBC BOS and SBHCD Board of Directors should understand that SBC needs to augment mental health care now. El Dorado County has a 10-bed PHF, and Sacramento has a 12-bed PHF; this is a basis to understand CA counties can get the state's support for county mental health care needs.

Response to Recommendation R23

This recommendation has already been implemented.

The Board of Supervisors has exceeded implementation of this recommendation through contracts with many Psychiatric Hospitals and a list of even more as potential other resources for psychiatric hospitalization. It should be understood that these hospitals are available on a fee for service basis, meaning a fee is paid only when a bed is used. It would not be fiscally sustainable to pay for reserved bed availability, known as a "dedicated bed payment" basis. Bed rates are expensive and to provide guaranteed payment for purchase of beds full or empty would be very costly. The Behavioral Health Department's historic rate of utilization for hospital beds would not fill 10 beds on a regular basis and that would mean paying for guaranteed bed availability would result in frequent payment for empty beds.

Recommendation R24

F1, F16, F17, F18, F19, F20, F21. Recommended that Board of Superisors capture the attention of the state on the basis of the CA Law WIC 5770 which reads: "Notwithstanding any other provision of law, the State Department of Health Care Services may directly, or by contract, with any public or private agency, provide any of the services under this division [WIG Division 5] when the state determines that the services are necessary to protect the public health, safety, or welfare."

Response to Recommendation R24

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors will not be implemented. Clearly, the Grand Jury is misinterpreting the intent of WIC 5770. WIC 5770 pertains to the State Department of Health Care Services (DHCS) contract processes for the delivery of mental health services. The State DHCS predominantly fulfills this statute by contracting with counties to provide mental health services. San Benito County for many years has maintained a Behavioral Health contract with the state and has received corresponding state and federal funding to provide services through the San Benito County Behavioral Health Department.

Recommendation R25

F1, F17-24, F35. SBC leadership and elected officials undergoing the impact of this lacking psychiatric mental health care system together implement an immediate and temporary solution. They should establish locations for a psychiatric crisis center for LE to bring 5150 holds needing assessment and a place to admit patients who require mental health evaluation and treatment as a result of the information provided in this report until effecting permanent solutions.

Response to Recommendation R25

This recommendation will not be implemented because it is not reasonable.

The Board of Supervisors will not implement as the Board believes that the recommendation would cost the County many millions of dollars to fulfill, as well as an ongoing commitment of operating funds that would be unsustainable. Additionally, the respondent believes that based on historical inpatient utilization for admission rates to acute psychiatric hospitals, such an endeavor would not have the utilization level to be cost- effective.

Recommendation R26

F24. The COH should be involved in and conferred with to play a more active role in collaboration, financing, and in establishing plans for future facilities.

Response to Recommendation R26

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors does not have authority over the City of Hollister. This recommendation is not relevant for a response from the BOS.

Recommendation R27

F1-F8, F16, F25, F26, F27, F28, F29, F30, F31, F34. Recommended that the SBC Sheriff or his SBC Jail representative be present at collaborative meetings when determining SBC mental health care program specifics that include the Jail. A further recommendation is that the Jail update policies and procedures section 609 correctly and reflective of a working mental health care system.

Response to Recommendation R27

This recommendation has already been implemented.

BH meets on a regular basis with jail staff at their quality improvement meetings to discuss jail health care, including mental health care. Other meetings are held with jail staff as needed, and BH will continue to meet with jail staff to address ongoing needs.

Recommendation R28

F1-F8, F16, F25, F26, F27, F28, F29, F30, F31, F34. BH should no longer provide one-way directives to the jail or other agencies as LE, HHH ED that significantly impact the other's resources. The January 2016 directive to the Jail should be rescinded and re-negotiated and re-established in a collaborative manner. If this includes union bargaining members, the BOS and its council should be notified, consulted, and involved.

Response to Recommendation R28

This recommendation will not be implemented because it is not warranted.

SBCBH strives to meet all state and federal regulations regarding the needs of persons with a Serious Mental Illness and/or those in crisis. Meeting the needs of these individuals may impact other agencies' resources. Each organization is mandated to deliver services within their scope of practice and responsibilities as outlined by state and federal regulations. The BOS is unaware of specific incidents of what the Grand Jury deems as "one way directives".

Recommendation R29

F1, F25-F31, F34. Recommended that related elected officials consider augmenting Jail psychiatric mental health care, either temporarily or permanently, by expanding the existing CFMG medical health care contract. CFMG currently offers this service and SBC currently is in contract with CFMG for other medical care.

Response to Recommendation R29

This recommendation will be implemented within the next six months.

The County is currently working on an amendment to the CFMG and has identified limited funds to take a first step in this direction.

Recommendation R30

F1, F4, F5, F7, F14, F28, F29, F30, F34. The recommendation is that every action is taken to eliminate significant delays at the Jail, including but not limited to, policies that exclude BH from being called into the Jail overnight, weekends, or holidays until such time that SBC's mental health care program is viable. Also, until such time when it is determined conclusively by further investigation that WIC 5150s released from the ED are no longer turning up at the jail needing BH to complete a previously truncated assessment and/or from making arrangements for an appropriate psychiatric evaluation and treatment plan.

Response to Recommendation R30

This recommendation will not be implemented because it is not warranted..

The Board of Supervisors Disagrees with this recommendation and will not implement as there has never been implementation of a policy eliminating behavioral health staff from seeing inmates at the jail during weekends or holidays. The current practice of behavioral health in responding to the jail notably exceeds the Title 15 Jail standards for care and custody of inmates. Behavioral Health staff has and continue to respond to requests to see jail inmates, including during weekends and holidays.

Recommendation R31

F1, F28, F29, F30, F31, F33, F34. BOS consider looking elsewhere for the Jail's mental health (inpatient or outpatient) needs as it does with other medical needs and establish a contract with an outside private facility to refer patients that will agree to work during the night to meet the SBC goals to work to achieve sound mental health care for inmates. If current BH union staff does not wish to assess inmates as needed, not simply adopting a procedure based on the minimums of related law, other resources should be used or shifted, and perhaps BH staff decreased.

Response to Recommendation R31

This recommendation will not be implemented because it is not warranted.

_This recommendation is not clear. The Board will implement an investigation of the Jail's mental health needs over the next 12 months, but will not implement a recommendation to reduce BH staffing is necessary to meet its own existing mandated responsibilities.

Recommendation R32

F1, F4, F7, F8, F9, F10, F12, F18, F23, F24, F32. Recommend that a milestone be that the 72-hour hold is no longer significantly extended after Finding a bed and transportation is the only consideration left. BOS should allocate funds from the county's general fund and request, through the Council of Government, that City of Hollister funds also is allocated this year for either BH or SBHCD (HHH) to manage for transport. After locating a patient bed, transport of mental health patients should be readily accessible, efficient, and safe and conducted as soon as possible for the patient. The amount of funds needed annually approximates \$300,000. It is understood this expenditure can reduce as state-funded facilities (such as a PHF) are established in SBC and wherein SBC can conduct mental health evaluations locally.

Response to Recommendation R32

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors does not agree with, and will not implement, this recommendation. There has never been a practice of intentionally extending 72 hour holds "after Finding a bed" for an individual psychiatric hospitalization. Respondent has procured a contract provider to provide medical transportation virtually on-demand if necessary. The BOS does not control transportation provider choices made when the HHH ED implement their required transfer of a client still requiring acute emergency services (EMTALA, includes psychiatric emergency care) to a facility that can provide the care that HHH does not provide. The BOS is aware that the HHH ED has procured a contract provider that has access to a variety of ambulance transport providers. The transportation delays that had at one time existed when the hospital was dependent on a sole provider source (AMR Ambulance Company) seem to have improved substantially.

Recommendation R33

F1, F8, F14, F16, F23, F32, F33. BOS establish directed protocol that ensures no mental health patient in SBC will forfeit an available bed in another county, to simply be released from the ED specifically due to lack of transport.

Response to Recommendation R33

This recommendation will not be implemented because it is not warranted.

This recommendation requires further analysis which will be conducted within the next three months. The Board of Supervisors states, however, that individuals meeting the criteria for detention under 5150 authority are and will continue to be detained under 5150 detention by the Behavioral Health Department until such time that a disposition can be implemented that ensures both the individual's and public's safety.

Recommendation R34

F1, F24, F33. BOS and COG evaluate and consult with BH and the Local Transportation Authority (LTA) for possible transport of some types of patients to facilities for voluntary mental health care.

Response to Recommendation R34

This recommendation has already been implemented.

BH clients who receive voluntary mental health services are able to utilize the existing local bus system. The San Benito County outpatient behavioral health clinic where clients can receive voluntary care is included on the local bus transportation route. When clients are unable to utilize public transportation as a result of their mental illness, case managers and rehabilitation specialists provide transportation to outpatient mental health services.

Recommendation R35

F33, F34 Is it recommended that the BOS have research continued to help determine the concerns of the SBC Juvenile Hall (JH) and the SBC Probation Department policies and procedures in mental health care. Both departments should be consulted and interviewed by independent, nonaligned researchers. Both departments should also participate in future collaboration and planning. The mandates and policies for the mental health care for minors held in detention and parolees stayed outside the scope of this report only due to time constraints. Members of the SBC Grand Jury 2015-16 working on this research have volunteered to assist with further impartial research and reporting on the needs and impact on these departments if requested. The SBC Grand Jury Foreperson has 2015-16 has contact information.

Response to Recommendation R35

This recommendation has already been implemented.

The recommendation has been implemented to the extent that both departments are discussing this issue in a collaborative fashion. Additionally, the Behavioral Health Department does have comprehensive policies and procedures for delivery of mental health care for both the adult jail detention facility and the County Juvenile Hall. The BH has provided mental health services for many years to both facilities and at the level required by Title 15. This recommendation will not be implemented to the extent it calls for the retention of an independent researcher, due to the fact that such step is not necessary at this time.

Recommendation R36

F36. Recommend that due to the inherent delays associated with the construction of a Homeless Facility that SBC local government together identify and the BOS approve an area and property ready to allow the building of a psychiatric treatment facility as soon as state assistance is secured.

Response to Recommendation R36

This recommendation will not be implemented because it is not warranted.

The Board of Supervisors has previously stated responses with supporting information included in responses to this document regarding the unfeasibility of the County building an inpatient psychiatric facility.

Recommendation R37

The Grand Jury recommends that the BOS, in conjunction with the Council of Government, evaluate the use of LTA to assist SBC in transportation as part of a temporary or permanent solution to the inherent and problematic logistics of a Mental Healthcare Program in SBC.

Response to Recommendation R37

This recommendation has already been implemented.

The Board of Supervisors has had discussion with Council of Government regarding transportation specific to concerns expressed by the grand jury report regarding their perceived difficulty with transportation of individuals detained under 5150 authority and their transport to a psychiatric inpatient hospital. The BOS believes the issue of transportation has been resolved. The Behavioral Health Department has procured a contract provider to provide medical transportation virtually on-demand if necessary. The BOS, however, does not control transportation provider choices made when the HHH ED implement their EMTALA required transfer of a client still requiring acute emergency services (which include psychiatric care) to a facility that can provide the care that HHH does not provide. The BOS is aware that the HHH ED has procured a contract provider that has access to a variety of ambulance transport providers. The transportation delays that had at one time existed when the hospital was dependent on a sole provider source seem to have improved substantially through the addition of HHH ED access to multiple ambulance transport providers.

Recommendation R38

F5, F6, F7, F24, F27, F30, F32, F33. For the good of our community, the SBC BOS establish a committee with members from HHH, BH, City Council, COG, County Jail, LE, Health and Human Services, SBC Probation Department, and three representative members from or appointed by the BOS. The initial meetings should validate Grand Jury Findings and compare existing research and documentation surrounding the various issues relevant to the departments, agencies and special districts about 5150, and general mental health care management in our county. The Grand Jury recommends these committee members (or representative) ratios to explore viable resolutions and report to the county:

- City of Hollister Police Department (HPD) 1
- San Benito County Sheriff's Department (SD) 1

Board of Directors, Hazel Hawkins Hospital (HHH)	2
San Benito County Board of Supervisors (BOS)	3
San Benito County Council of Governments (COG)	1
Hollister City Council	1
SBC Department of Health and Human Services	1
San Benito County Probation Department	1
Behavioral Health Department	2

A formally established Director should be hired as an unbiased county employee consultant to direct the meetings and mediate and negotiate solutions. The BOS should confer with and select an individual to have knowledge, impartial bias, authority, and ability to travel to Sacramento to meet with relevant state authorities to obtain support and meet with all SBC community agencies ensuring their needs met. An ad hoc or permanent committee should be formed as soon as possible, and remain working with authority until formalized solutions for a viable public mental health care system are established from the beginning to end to correctly manage individuals in a temporary involuntary hold placed in SBC's responsibility. No appointees should have cognitive bias from an existing government, agency, or district to avoid counterproductive, or ineffective, resolution.

Response to Recommendation R38

The recommendation will not be implemented because it is not warranted.

The Board of Supervisor’s opinion is that this recommendation is excessive, expensive, and unnecessary. Many of the entities aforementioned and as related to 5150 issues already meet through a number of meetings, such as the Emergency Services Committee, the Behavioral Health Quality Improvement Committee and the Jail Health Services Quality Improvement Committee, etc.

Date: June 5, 2017

To: Honorable Steven R. Sanders, Presiding Judge
Superior Court of California, County of San Benito

From: San Benito County Board of Supervisors

Subject: Response to San Benito County Grand Jury Report for FY 2015-2016 in Reference to "Jail Report", "Juvenile Hall Report", and "Public Healthcare Management Report"

This joint letter contains San Benito County's formal response to the Grand Jury Report for FY 2015-16 specifically relating to the "Jail Report", "Juvenile Hall Report", and "Public Healthcare Management Report." This response fulfills Penal Code Section 933 that mandates a response to the Grand Jury Report within 90 days of the report.

The Board of Supervisors reserves the right to implement or change its position as outlined in the Findings and Recommendations listed below in accordance with available budgetary and staff resources. Additionally, the Board of Supervisors acknowledges the role and authority of the County Administrative Officer to establish and implement administrative findings and directives to insure the timely and efficient administration of County Government in accordance with all applicable California State Statutes as well as policy priorities and initiatives established in the San Benito County Fiscal Year Budget.

I. COUNTY PARK PEDESTRIAN SAFETY REPORT

FINDINGS

Finding F1

The speed limit of 40 mph is higher than the typical residential limit of 25 mph, presenting higher risk of vehicular pedestrian injury.

Response to Finding 1

This street is a city street, and therefore the Board of Supervisors does not respond to this finding.

Finding F2

The speed limit on Memorial Drive does not reflect the use of existing speed risk data or any risk analysis.

Response to Finding 2

This street is a city street, and therefore the Board of Supervisors does not respond to this finding.

Finding F3

Perception by some residents is that local government is either unaware of the risks to pedestrians on Memorial Drive or is unconcerned.

Response to Finding 3

The Board of Supervisors concurs with the Grand Jury's findings.

Finding F4

There is a lack of vehicle calming methods to assist pedestrian safety.

Response to Finding 4

The Board of Supervisors partially concurs with the Grand Jury's findings. There is no vehicle calming methods between the existing stop signs and traffic signals.

RECOMMENDATIONS

Recommendation R1.

F1, F2, F3, F4, Lower the speed limit on the segment of Memorial Drive adjacent to the park to a speed based on a combination of studies and surveys, not just the speed summary in cooperation with the City of Hollister.

Response to Recommendation R1

This street is a city street, and therefore the Board of Supervisors cannot implement this recommendation.

Recommendation R2.

F3, F4, Put in a crosswalk from the playground area to the ballpark entrance.

Response to Recommendation R2

This street is a city street, and therefore the Board of Supervisors cannot implement this recommendation.

Recommendation R3.

F3, F4, Place calming techniques such as adding plate strips, Bott dots, speed bumps and/or advisory signs, paint the speed limit on the asphalt, yellow flashing lights during events.

Response to Recommendation R3

This street is a city street, and therefore the Board of Supervisors cannot implement this recommendation.

Recommendation R4.

F3, F4, Attempts should be made to make the motorist aware of non-apparent conditions while driving on Memorial Drive given the presence of events and pedestrians.

Response to Recommendation R4

This street is a city street, and therefore the Board of Supervisors cannot implement this recommendation.

Recommendation R5.

F1, F2, F3, F4, Local government should not wait until a major traffic injury or fatality occurs on the Memorial Drive segment adjacent to Veterans Park before addressing the speed issue. Local government should acknowledge and further evaluate safety and the speed to prevent and not wait to react to accidents. Local government should decide if conditions warrant another E&TS be done before 2017.

Response to Recommendation R5

This street is a city street, and therefore the Board of Supervisors cannot implement this recommendation. However, the topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

Recommendation R6.

F1, F2 Conduct further analysis: Determine the number of pedestrians during a typical event and on a regular day. Count the traffic during a typical event and on a regular day. Research the risk of injury based on the number of pedestrians in proximity to the number of cars. Determine if any benefits exist in a speed limit of 40mph.

Response to Recommendation R6

This street is a city street, and therefore the Board of Supervisors is not the jurisdiction responsible for implementing this recommendation. However, the topic is appropriate for further discussion at an Intergovernmental Level between the County of San Benito and the City of Hollister so as to determine if a mutually acceptable solution can be formulated.

II. **SAN BENITO COUNTY JAIL REPORT**

FINDINGS

Finding F1

The jail requires a full-time, dedicated maintenance person for both preventative maintenance and routine repairs.

Response to Finding F1

The Board of Supervisors concurs with the Grand Jury's findings.

Finding F2

The county jail staff excellently runs the jail without critical resources. Though admirable, this cannot nor should not last indefinitely. SBCGJ recognizes the county jail for what it is: a vital community agency, which renders superb service to the public 24 hours a day/7 days a week. The jail staff is commended.

Response to Finding F2

The Board of Supervisors concurs with the Grand Jury's findings.

Finding F3

Incidents of correctional officers injured due to lack of training/use of the safety chair used for violent inmates.

Response to Finding F3

The Board of Supervisors concurs with the Grand Jury's findings.

Finding F4

Though urgently needed, there is no acceptable and workable protocol for WIC 5150 Psychiatric holds.

Response to Finding F4

The Board of Supervisors concurs with this finding.

Finding F5

Additional staffing needed. Required duties performed per shift indicate the ratio of staff to inmates is at unsafe levels during known influx times.

Response to Finding F5

The Board of Supervisors concurs with the Grand Jury's findings.

Finding F6

Inmate complaints about the quality and portions of food provided at the jail seem warranted.

Response to Finding F6

The Board of Supervisors concurs with the Grand Jury's findings.

RECOMMENDATIONS**Recommendation R1**

F1. Employ a full-time, dedicated maintenance person for both preventative maintenance and routine repairs. The employee has his main office at jail and work on other outside Public Works jobs, if needed; not the other way around as is now. Note: If governing bodies plan to address this recommendation with a statement that simply refers to "lack of funds", SBCGJ also recommends this be accompanied by a cost/risk/benefit analysis using hours CO spend on repairs versus other duties; associated risk with CO's taken off the floor to do maintenance and the safety risk of skipping repairs; cost of major repairs due to lack of preventative maintenance; and a list of critical equipment's most recent preventive maintenance and calibrations.

Response to Recommendation R1

The County is unable to implement this recommendation at this time due to budget limitations. The County currently has three maintenance employees that provide services for the entire County. A formal cost/benefit analysis will not be implemented due to the fact that adequate services should be able to be performed by current maintenance staff without dedicating this staff full-time to the jail.

Recommendation R2

F2, F5. Provide the jail with needed resources and staff. The BOS should not become complacent and assert because the jail staff runs the jail well doesn't mean they don't need the additional assets that they continue to request. They make it work because it is a matter of life or death. Not providing the jail with assets penalizes staff for a job well done and keeps the jail running at high stress levels. Staffing is needed specifically during daytime court transports and in the evening for the additional duties specific during the night hours (i.e. when no nurse, medical, or behavior health personnel is on site). Additional staffing should also be regularly provided for planned events when it is known there is a large influx of people into the community, such as the bike rally weekend. Required duties performed per shift clearly indicate the ratio of staff to inmates is at unsafe levels during influx times.

Response to Recommendation R2

This recommendation will be partially implemented this fiscal year.

This budget cycle the BOS will focus on providing additional on-site medical, to assist in nightly medication pass, swing shift medical screenings for newly arrived arrestees, and coverage for medical emergencies.

Staffing for special events has been provided and will continue to be based on specific intelligence and perceived needs. Transport has been staffed with one (1) additional deputy for the last two (2) years, creating a total of three (3) transport deputies. There are times when the

three (3) deputies assigned to transport are not enough. Overtime is utilized to fill those gaps and will continue to be used. The Board believes that the current budget recommendation is sufficient to meet these needs.

Recommendation R3

F3. Provide the jail staff with needed training. Provide training in extraction and restraint for hostile inmates, specifically in regard to utilizing the safety restraint chair. Having no policy or training on a safety chair used for violent inmates has already led to staff injury. Use of the Restraint Chair is necessary and therefore appropriate training is required.

Response to Recommendation R3

The County has already implemented this recommendation. Staff is provided with twenty-four (24) hours of continuing professional training annually which is what is required by Standards & Training for Corrections (“STC”). Annually they are trained in defensive tactics, range, first-aid and a variety of trainings provided locally. Staff is also required to stay current in Prison Rape Elimination Act (“PREA”) training, county required training for supervisors and jail managers. The jail has met standards regarding its STC training reviews for the last two (2) years. However there can never be enough training and concerted efforts are being made to identify a robust, meaningful training regimen which is also fiscally responsible and budgetary acceptable.

Training in the use of the restraint chair was provided to a select group of officers in 2016. However, use of the restraint chair requires significant involvement from a medical care provider. Placement must be medically reviewed within one hour, and additional assessment conducted every four (4) hours; Title 15 CCR Section 1058. So the jail staff’s inability to use this tool is primarily based on our limited medical coverage.

While use of a restraint chair may be considered necessary under certain circumstances, such use for placement of a combative subject generally takes more staffing resources than the jail has on-duty at a given time. Although sometimes a valuable tool, the implementation of a restraint chair can produce injury to inmates and staff if that implementation is attempted without sufficient staff. That aside, the jail only has the necessary medical resources present to utilize the restraint chair for 8 hours per 24-hour period. For additional information regarding the use of restraint chairs, kindly refer to Section 1058 of Title 15. The Board of Supervisors will evaluate the value of undergoing the training for those occasions when the jail does have medical services present (8 hours per day) and sufficient staff numbers (periodically).

There is policy that could be authored and distributed almost immediately if and when we have the resources, staff and medical staff, to deploy such a policy. With more staffing and increased medical it will become a viable option in the future.

Recommendation R4

F4. Collaboration is vital to determine a workable system for WIC 5150 inmate evaluation and treatment. An agreement needs to be reached between the County Jail and Behavioral Health that is acceptable to both parties in regard to call out procedures; to evaluate suicidal inmates in a more timely manner so that correctional staff is not used for prolonged monitoring of a suicidal inmate or inmates needing other special psychiatric care.

Response to Recommendation R4

This recommendation will be implemented within the next year. The Assistant County Administrative Officer is involved in facilitating communication and mutual cooperation between the Sheriff's office and Behavioral Health which is designed to accomplish this recommendation.

Recommendation R5

F6. It is time for SBC governing agencies to analyze carefully the potential high costs of the poor quality of food given to people in lock-up. The pervasiveness of food quality complaints by inmates in the SBC Jail is a call for stepped up external oversight. Not simply relying on reports generated by the contractor, the BOS should conduct an in depth management analysis of taxpayers' money spent for inmates in a service contract. This evaluation should review OSHA guidelines for quality assurance; proper food handling; food safety; and that FDA guidelines for nutrition are being provided to inmates. *The BOS is strongly encouraged to opt for inspection from an outside nonprofit organization, such as the American Correctional Association.*

Response to Recommendation R5

This recommendation has been partially implemented by the Sheriff's Office. The County does not believe paying for outside analysis is warranted at this time.

The Grand Jury report indicates receiving "unequivocally" complaints from inmates during their inspection; that food is unpalatable; portions were small, lacked protein and had an unhealthy limited change in variety. The jail's vendor, Aramark Correctional Services, employs Nutrition and Operational Support Services personnel made up of Registered Dietitians who are dedicated solely to the correctional industry and secured environments. They are responsible for menu planning for the general population, as well as for therapeutic diet needs, in accordance with the standards set by the American Corrections Association and the National Commission of Correctional Health Care. These procedures are standards used by Aramark Correctional Services to:

- 1. Provide a quality diet program for correctional facilities.*
- 2. Meet recommendations of the American Correctional Association.*
- 3. Meet recommendations of the National Commission on Correctional Health Care of the American Medical Association.*

Their regular menu is developed to meet the Recommended Dietary Allowances and the Dietary Reference Intake for the age, sex, and activity level of the jail's population; as specified in the

Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences. The menu specifies a weekly average of 2600 calories per day, with less than 30% of calories from fat. A nutrition statement is prepared and signed annually by a dietician.

Each year, the San Benito County Health Department conducts their annual inspection. A Registered Dietician from Hazel Hawkins Hospital, a County Registered Nurse and a County Environmental Inspector inspect three sections of the jail; Medical/ Mental Health, Nutrition and the physical plant. The nutrition inspection consists of Food Handling, Frequency of Serving, Minimum Diet, Food Service Plan, Kitchen Facilities, Sanitation and Food Service, Food Serving and Supervision, Disciplinary Isolation Diet, and Medical Diets.

Comments from the 2016 Health Inspection made by Jennifer Bange, MS RD; states that the menu has been approved by the Aramark dietician and is nutritionally adequate. At times substitutions are made to the menu based on food availability at the Santa Rita facility, but the substituted food items are of equivalent nutritional value. Inmates are not given salt packages because of the healthy guidelines on which the menu is based, but a black pepper packet is supplied.

The health inspection report finds that the Aramark menu plan meets Article 1242, Menus; states that menus are planned at least once a month in advance of their use. Menus are planned to provide a variety of foods, thus preventing repetitive meals.

In Ms. Bange's summary of the nutritional evaluation; she states that she reviewed the meal temperature logs as well as the freezer and refrigerator temperature logs. No problems were identified. This was one of the concerns that the Grand Jury expressed.

III. SAN BENITO COUNTY JUVENILE HALL REPORT

FINDINGS

Finding F1

There is no clear understanding on what the status is on the project to fix the basketball court and cement over the dangerous, hole-filled grass area.

Response to Finding F1

The Board of Supervisors agrees with Finding No. 1, as when the Grand Jury report was drafted. The Probation Department has been working with the San Benito County Resource Management Agency (RMA) to repair the recreation yard. The vision regarding the recreation yard repairs and other maintenance issues, as well as efforts and status to address these matters have been communicated internally. This effort is part of a larger project for overall

repairs and maintenance of the facility. However, finalization of those plans and management of the overall project has taken longer than hoped and communication regarding the status of this project could have been more comprehensive.

Finding F2

The shower in the intake area needs to be remodeled for safety reasons.

Response to Finding F2

The Board of Supervisors agrees with Finding No. 2.

Finding F3

There has been recent training for the staff, but continuous and additional training would be beneficial.

Response to Finding F3

The Board of Supervisors partially agrees with Finding No. 3. The implication that staff members do not receive on-going training is incorrect. The Board of State and Community Corrections – Standards and Training for Corrections (BSCC – STC) Regulations mandate that full-time Juvenile Institutional Officers receive initial/basic or “Core” training of over 200 hours, certified by the STC, and minimum annual training of twenty-four (24) hours of STC Certified courses. The County consistently meets or exceeds this requirement for each officer. It is acknowledged that the part-time (Extra-Help) Juvenile Institutions Officers (JIOs) are under no such mandate. While Extra-Help JIOs must be accompanied by “Core-Trained” staff, it is acknowledged that additional training for Extra-Help JIOs would be helpful.

Finding F4

There is no regular facility maintenance employee.

Response to Finding F4

The Board of Supervisors agrees with Finding No. 4. Facility maintenance above and beyond basic cleaning is coordinated by the Resource Management Agency (RMA). While there is no single employee assigned by RMA to the Juvenile Hall, RMA does provide maintenance to both the Juvenile Hall and the Jail.

Finding F5

The Mission Statement is outdated.

Response to Finding F5

The Board of Supervisors agrees with Finding No. 5.

RECOMMENDATIONS

Recommendation R1

F1. Get an update from Capital Projects on what is needed to complete the resurfacing and repair.

Response to Recommendation R1

This recommendation has been implemented. While this specific project is to be completed, a number of other repair and maintenance items are also being addressed. This effort is part of an overall repair and maintenance plan for the entire facility. A presentation by the Probation Department and the Resource Management Agency regarding the status of Juvenile Hall Recreation Yard, as well as other repairs, was made to the San Benito County Board of Supervisors during its regularly scheduled meeting on April 25, 2017.

Recommendation R2

F2. Remodel the shower in the intake area in a timely manner.

Response to Recommendation R2

The Board of Supervisors will implement Recommendation No.2 within the next 12 – 18 months. This topic is also being addressed as part of the overall repair and maintenance plan for the facility.

Recommendation R3

F3. Provide additional training for the staff, both in the corrections area and in the juvenile counseling area.

Response to Recommendation R3

This recommendation will be implemented. Continuous and relevant training is a key component to maintaining professional staff. All regularly employed Juvenile Institutional Officers are required to have a minimum of 24-hours of certified training annually. Additional training for extra-help JIOs will be provided.

Recommendation R4

F4. Provide additional funding for a full time maintenance employee.

Response to Recommendation R4

The Board of Supervisors disagrees with this recommendation and will not implement this recommendation at this time due to budgetary limitations. Much of the repair issues at this time are being addressed through the overall repair and maintenance project. At this time, dedicating funding specifically for a single maintenance employee may be pre-mature, and should be examined once all the repairs are completed to assess and determine what regular basic maintenance needs to be completed to maintain the facility.

Recommendation R5

F5. Update and shorten the mission statement

Response to Recommendation R5

This recommendation will be implemented within the next 12 to 18 months. The mission statement is the forward facing declaration of the purpose of Juvenile Hall. However, development of a truly viable and meaningful mission statement needs to involve staff at all levels and there may be other, more pressing needs at this time.

IV. PUBLIC HEALTHCARE MANAGEMENT REPORT

FINDINGS

Finding F1

The San Benito County Board of Supervisors is out of compliance with California State Law; specifically the CA Welfare and Institution Code.

Response to Finding F1

The Board of Supervisors disagrees with this finding. Although the finding F1 lacks specificity as there are a multitude of W& I Codes, it is assumed that the finding relates to WIC Section 5150. Any references in the WIC Section 5150 and related other WIC sections specifically identifying Board of Supervisors (BOS) authority/ responsibilities are specific to the authorization of Designated Facilities and BOS appointment of the Local Mental Health Director. It should be noted that the BOS authority to designate facilities does not include Hospitals, such as Hazel Hawkins Hospital. Psychiatric Facility Designation for a Hospital is under the authority of the State Department of Health Care Services, not the County BOS.

The BOS is not specifically identified as the entity required by the WIC 5150 that must be the authority that shall authorize individuals or entities to have 5150 implementation authorization. WIC 5607 however specifies that “The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body” (the BOS). Most counties delegate their local Behavioral Health Director as the authority to authorize their staff and often in larger counties additionally their Behavioral Health Department’s contract providers, the authority to implement 5150.

Therefore, the BOS is in compliance with the Welfare and Institutions code’s pertaining to designation of facilities and the appointment of a local director of mental health services. The BH Director has been appointed by the BOS to administer the Behavioral Health Program. The

BH Director complies with WIC 5150 laws and regulations, as well as all other applicable state and federal requirements that outline requirements for operating a specialty Behavioral Health system.

Finding F2

No written directive is in place from the County Administration Officer for designation of the county health care professional as required by California State Law (CA WIG paragraph (1) of subdivision (a) of Section 5150), and which also mandates the BOS certify whom the CAO designates as the county health professional.

Response to Finding F2

The Board of Supervisors does not agree with the implied intent of this finding. It is assumed that the Grand Jury, although not clearly stated, implies in error that the WIC 5150 mandates that the Board of Supervisors and/or the County Administrative Officer (CAO) shall be directly involved as the authorizing authority granting individuals, or entities, the authority to implement WIC 5150 involuntary detention.

WIC 5607 however specifies that “The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body” (the BOS). In 2001 the BOS, the CAO and members of the Local Mental Health Board appointed the current local Director of Mental Health to administer local mental health services.

Finding F3

A written policy is needed from the BOS to specifically designate the treatment facility to receive WIC 5150 holds in SBC.

Response to Finding F3

The Board of Supervisors disagrees with this finding. There is no such treatment facility in San Benito County to designate. It should also be noted that the BOS authority to designate facilities does not include Hospitals, such as Hazel Hawkins Hospital. Psychiatric Facility Designation for a General Hospital is under the authority of the State Department of Health Care Services, not the County BOS.

Finding F4

San Benito County needs a clearly defined program to care for persons that need to be held involuntarily for mental care assessment (5150), through to evaluation and treatment (5151, 5250, and so on.)

Response to Finding F4

The Board of Supervisors disagrees with this finding. San Benito County Behavioral Health has a clearly defined system of care for persons detained under 5150. It is a system of care that

responds to all persons placed on a 5150 hold that need to be held involuntarily for mental care assessment (5150). The BH Department conducts a mental health assessment, evaluation, and treatment for individuals who are involuntarily detained under authority of WIC 5150. These processes are clearly defined in BH Department policies and procedures. BH staff are guided by and implement treatment protocols utilizing a full array of available resources. The references per the stated finding to “5151, 5250, and so on” are not relevant as the 5151 and 5250 processes are required to occur at a designated facility for 72-hour treatment and evaluation. There are no such facilities in San Benito County.

Finding F5

Agencies and departments such as the ED, BH, SB County Jail, LE; all that come into contact with individuals who may need mental health assessment or treatment do not have updated, and consistently relevant to one another's, policies and procedures on file.

Response to Finding F5

Disagree. The Behavioral Health Department does have current policies and procedures regarding individuals who may need mental health assessments or treatment. The Behavioral Health Department has worked in coordination with the County Jail to structure policies and procedures that address individuals who may need mental health assessments, or treatment, and will continue to do so as may be necessary as relevant changes may occur to Title 15 Standards for Local Detention Facilities. BH and Jail staff have also held shared trainings to better understand these policies and procedures and improve collaboration and coordination of services to meet the needs of individuals in the jail.

Finding F6

Conflicting policies and procedures exist with particular reference to 5150 holds among agencies, districts, and SBC departments.

Response to Finding F6

Disagree. As stated, however, in #6 above, BH and the Sheriff's Department have held shared trainings previously to improve coordination between these two departments. Additionally ongoing dialogue occurs on a regularly scheduled basis pertinent to the management of all jail health services, including mental health services at a regularly scheduled meeting with the jail health care services Quality Improvement Committee.

Finding F7

General communication between departments, agencies and districts are lacking.

Response to Finding F7

The Board of Supervisors disagrees with this Finding. The Behavioral Health Department leadership and line staff have and continue to communicate often to all other entities that

become involved with mental health issues. There is ongoing communication regarding referrals to BH, on-site treatment, and coordination of psychiatric medications. Many of the entities aforementioned and as related to 5150 issues also attend a number of meetings together, such as the Emergency Services Committee, the Behavioral Health Quality Improvement Committee and the Jail Health Services Quality Improvement Committee, etc.

Finding F8

Negotiated Memorandums of Understanding (MOUs) do not exist for providing mental health care in SBC and between agencies under different boards, county, or state authority

Response to Finding F8

The Board of Supervisors disagrees with this finding. There is an MOU in place specific to the duties and responsibilities of the parties to the MOU agreement regarding mental health care. The participating parties to the MOU agreement are the City of Hollister Police Department, Hazel Hawkins Hospital, San Benito County Behavioral Health Services, San Benito County Probation Department and the San Benito County Sheriff's Department. There is also an MOU in place between BH and the San Benito County Sheriff's Department specific to the terms and conditions for access to BH Psychiatrist M.D. services at the County Jail.

Finding F9

The time between initial custodial hold and admission as an inpatient for a person in an involuntary hold under WIC often exceeds 72 hours in SBC, and not infrequently goes beyond a week. Reports indicate that patients are being held waiting in the HHH ED for as long as 14 days for further mental health evaluation and treatment.

Response to Finding F9

The Board of Supervisors disagrees with this finding. This finding is expressed in excessive terms as it refers to "a person in an involuntary hold under WIC often exceeds 72 hours in SBC, and not infrequently goes beyond a week". For example in FY 2015-16, ninety-nine (99) individuals required inpatient psychiatric hospitalization. This calculates into one person admitted every three (3) days. A larger number of individuals were brought to the HHH, ED on a WIC 5150 involuntary detention but were diverted from psychiatric hospitalization (5150 discontinued) after being provided an evaluation and crisis intervention by BH staff.

Note that during 2015/16, only eight (8) individuals remained at the HHH ED for longer than 72 hours. These were individuals served by the BH staff at the HHH, ED while under WIC 5150 involuntary detention that could not be stabilized and released within the initial 72 hours of the 5150 hold. In addition, BH was unable to locate an open psychiatric hospital bed within the first 72 hours of their ED stay. At all times, each individual was assessed to determine if the 5150 criteria were met. When the individual continues to meet the 5150 criteria, it is in the individual's and community's best interest to keep the individual and community safe, by

maintaining the involuntary hold until the individual can receive the level of care to meet their acute psychiatric needs.

It should be understood that in an era of rising drug abuse and /or mental illness, along with a statewide shortage of psychiatric hospital beds, that at some time anywhere in California there will be the need to maintain an involuntary hold and protect a mentally unstable individual, as well as protect the public, by utilizing the WIC 5150 detention.

In FY 2015-16, only one person remained in the ED for a 14 day period of time. This unfortunate situation involved an unusual and rare event. The individual had been remanded by the Superior Court to the State Mental Hospital for treatment to regain mental competency to be fit to stand trial for a charge of felony assault on a police officer. The individual subsequently was released by the State Hospital after a 3 year stay after being deemed to be unlikely to ever regain mental competency to stand trial. As a result, the individual was sent back to the San Benito County Jail and the BH Department asked the jail to facilitate release of the client to allow BH to identify and implement a more appropriate plan of care, including acute psychiatric hospitalization and initiation of a LPS conservatorship and long-term placement in an Institution for Mental Disorder (IMD). This situation required a medical clearance at HHH and identification of an appropriate psychiatric facility to meet this unusual situation. Due to the history of events this individual had accumulated it was difficult to locate an accepting appropriate facility and also complete the required court processes to implement a conservatorship, causing an unexpected length of stay at HHH.

Finding F10

The SBC Behavioral Health Department is writing consecutive WIC 5150s.

Response to Finding F10

The Board of Supervisors agrees this finding can occur and refers to the previous response, the response to Finding F9 for additional information. It is important to note in the year of 2015-16 that there were eight (8) individuals that were difficult to find an appropriate inpatient facility placement for within the required 72 hours. As a result each individual was re-evaluated and continued to meet the criteria for 5150 detention. San Benito County behavioral health staff implemented the best available options to ensure the individual's safety, as well as the safety of the community.

Finding F11

Patients on a temporary involuntary hold in SBC hold may not know their legal rights under the CA WIC laws of civil commitment.

Response to Finding F11

The Board of Supervisors agrees that conditions could exist that could compromise an individual's ability to know their legal rights under the "CA WIC laws of civil commitment".

Individuals that are found to be appropriate for involuntary detention under WIC 5150 are commonly experiencing a level of serious mental instability that compromises their ability to understand and provide informed consent. Additionally it should be understood that BH staff are rarely the first responding staff that will take the person into custody because most WIC 5150 detentions are initiated by law enforcement during an encounter in the field. In such instances, law enforcement staff would be responsible for providing the individual at the time they are taken into custody, the required advisement as per WIC 5157.

“WIC 5157- Information to be given person taken into custody” “(a) Each person, at the time he or she is first taken into custody under provisions of Section 5150, shall be provided, by the person who takes such other person into custody”, “the required information as outlined in summary in the requirements of WIC-5157”.

A less frequent situation involves the BH staff as the ‘first responder’ implementing the WIC 5150 involuntary detention. In such circumstances the BH staff will provide the same advisement as would a detaining law enforcement officer.

It should also be understood that WIC 5157 identifies a separate and different requirement for informing clients of their rights when a person is detained under WIC 5150 and after they are “admitted to a designated facility for 72-hour evaluation and treatment.” Those particular rights and informing processes are required to be administered by admission staff at the designated treatment facility. The HHH ED is not a Designated Facility for evaluation and treatment so it should not be confused that the Patient Rights Informing Processes required at a designated facility are the same and relevant to a general hospital ED. When the individual is admitted to an available designated psychiatric facility, the staff at that designated facility is mandated to inform the individual of a more detailed list of their rights as relevant to a psychiatric hospital stay.

Finding F12

There is a possible violation of Patient's Rights when under a temporary involuntary hold in SBC being violated, under the CA WIC laws of civil commitment.

Response to Finding F12

The Board of Supervisors disagrees with this Finding. The Grand Jury finding is made in the context of “a possible violation of Patients’ Rights”. The Board of Supervisors is certain, however, that the BH Department has not violated Patient Rights under the CA WIC laws of civil commitment.

Finding F13

The HHH ED staff is using a pamphlet derived from Santa Cruz County to distribute to patients on WIC 5150 holds about their civil rights.

Response to Finding F13

The Board of Supervisors has no further response other than that the finding is based on a statement alluding to a practice within the purview of the HHH ED and the information that HHH has decided their staff should distribute.

Finding F14

The HHH ED staff may be releasing WIC 5150 hold patients that exceed 72 hours due to concerns about violations of patient's rights.

Response to Finding F14

The Board of Supervisors agrees that the BH Department is aware of one incident that occurred that involved HHH ED staff releasing an individual under WIC 5150 hold because of a concern expressed by HHH that 72 hours had elapsed while the individual was under 5150 hold and there were concerns about violations of patient's rights. The BH Department initiated discussions with HHH about such practice, including the issue of EMTALA violations and the risk to the safety of the individual and issues of public safety if this continued to occur as a practice. HHH agreed to abandon this protocol.

Finding F15

BH does not have official authorization or paperwork from any authority to support the claim that they may stack 5150s.

Response to Finding F15

The Board of Supervisors agrees and further presents that the BH Department also does not have official sanction or paperwork from any authority that prohibits BH from implementing a 5150 detention when a client meets the required criteria as presenting as a danger to self, or others, or gravely disabled as a result of a mental disorder and the clients mental state has not been stabilized or an available psychiatric inpatient hospital bed has not yet been found. The BH program has policies and procedures to ensure an individual's safety, as well as the safety of the community. Issues of safety are the highest priority, regardless of the availability of a psychiatric inpatient bed in the region on a specific time and day.

Finding F16

There is a lack of adequate county psychiatric health facilities, crisis centers, and/or inpatient psychiatric beds based upon the previous, current, and the rapidly growing SBC population

Response to Finding F16

The Board of Supervisors partially agrees with this finding. The grand jury finding is correct in identifying that there may be during times of need a shortage of adequate psychiatric inpatient bed availability. It should be noted, however, that this issue is not just specific to San Benito

County, but is experienced throughout the state. It should also be noted that based upon current utilization of psychiatric hospital services, approximately 693 bed days were used in FY 15/16 by the 99 SBC residents who were psychiatrically hospitalized (with an average length of stay of 7 days). If SBC builds and staffs a 16 bed Psychiatric Health Facility, only two of the 16 beds (693/5,840 bed days) would be needed by SBC. This would require filling the empty 5,147 bed days with persons from other counties. There are wealthier counties surrounding San Benito County that also experience a shortage of psychiatric bed availability. Discussion has occurred with the behavioral health directors of some of our neighbor counties and it is clear that because of the low utilization rate for San Benito County, our contribution to a regional psychiatric facility would be fractional compared to the amount of funding that our neighbor counties would need to contribute based on their utilization. It would be more prudent for one of our wealthier neighbor counties to build or add additional psychiatric bed capacity to one of their already existing facilities.

Finding F17

Mental health patients may have to wait a long time to be medically cleared.

Response to Finding F17

The Board of Supervisors has no control or jurisdiction over the processes involved with an individual receiving medical clearance from HHH. It is the experience of the BOS that the HHH ED staff utilizes a triage protocol and responds as quickly as possible, depending upon the severity of other presenting problems at any time in the ED.

Finding F18

Mental health patients who come in, or are brought in, consecutively to the HHH ED may 'backup' in the ED while waiting for medical clearance and assessment.

Response to Finding F18

The Board of Supervisors has no control or jurisdiction over decisions made by ED physicians regarding the cases that they prioritize for immediate medical attention. Physical medicine processes involved with an individual receiving medical clearance are not within the purview of the BOS. There are many factors that contribute to ED work load and priority triaging as the nature of an ED is that workload ebbs and flows depending on urgency of care needs for many different patients requiring urgent or emergency level of care needs.

Finding F19

Healthcare and security manpower requirements at HHH increase when monitoring and holding an individual on a WIC 5150 involuntary hold, and increase at a more rapid rate when exceeding the allowed 72 hours.

Response to Finding F19

This may be the opinion of the Grand Jury, however, the Board of Supervisors has no control or jurisdiction over the processes involved with HHH security staffing. It should be noted, however, that many individuals with acute mental health conditions stabilize as time passes and particularly if the etiology of their mental agitation is due to substance abuse.

Finding F20

A backlog of individuals on a WIC 5150 involuntary hold results in mental health patients in the ED with no place to wait creates general HHH ED crowding, financial, and security risks.

Response to Finding F20

This may be the opinion of the Grand Jury, however, the Board of Supervisors has no control or jurisdiction over management of HHH ED operations/logistics management, or the ability to control how and when individuals may be admitted to the ED for a variety of conditions, including acute physical health care needs and individuals admitted to the ED, while under WIC 5150 involuntary detention.

Finding F21

The ED can be holding multiple psychiatric patients in ED beds, creating a longer wait time for medical treatment for other types of ED patients.

Response to Finding F21

The Board of Supervisors assumes that a serious or life threatening medical condition would move to the front of the list for providing medical care in the ED, as opposed to prioritizing a medical clearance for an individual in a nonlife threatening condition. The BOS has no control or jurisdiction over management of HHH ED operations/logistics management or the ability to control how many individuals may be admitted for a variety of reasons to the HHH ED, including individuals that may be under WIC 5150 involuntary detention.

Finding F22

HHH or the HHH Emergency Department or does not have a psychiatrist on staff.

Response to Finding F22

The Board of Supervisors has no control or jurisdiction over HHH and their recruitment of MD's to the community, including the specialist category of Psychiatrist, MD.

Finding F23

The San Benito Health Care District, Board of Directors, is not involved enough in the oversight and disposition of HHH ED individuals in a WIC 5150 temporary involuntary hold and persons needing mental health care assessment, evaluation, and treatment or transfer.

Response to Finding F23

This may be the opinion of the Grand Jury, however, the Board of Supervisors has no authority or jurisdiction over the San Benito Health Care District, Board of Directors.

Finding F24

The Mayor of Hollister and City Council of Hollister are not systematically involved in the impact Hollister residents experience from a limited mental health program and dysfunction of the communications and protocols among the agencies.

Response to Finding F24

This may be the opinion of the Grand Jury; however, the Board of Supervisors has no control or jurisdiction over the Mayor of Hollister and City Council of Hollister.

Finding F25

Jail psychiatric support is lacking.

Response to Finding F25

The Board of Supervisors partially agrees with this finding as we can all agree that there is always “room for improvement”. The Behavioral Health Department, however, for many years has and continues to provide the required level of mental health services to allow the jail to be in compliance with their Title 15 Jail Care and Custody mandates for mental health services. It is a tremendous burden for the Behavioral Health Department to meet the jail’s Title 15 mental health care requirements. While expanding care to levels beyond the mandates is desirable, it is not feasible for the Behavioral Health Department to provide. It should be understood that Jail mental health services are not a service that the Behavioral Health Department is mandated to provide (many jails purchase the services through private providers). Just as it is the Jail’s mandate to meet their requirements, the Behavioral Health Department also must fulfill its own many services and administrative mandates that are requirements for Behavioral Health Departments by their oversight entity, the State Department of Health Care Services. In spite of these challenges SBCBH has always delivered clinical evaluation/assessment and psychiatric medication management services in the jail and has provided training to jail staff to improve coordination of referrals and delivery of services.

Finding F26

Correctly updated written SBC Jail policies and procedures in Section 609 are not possible in the current climate of a broken mental health care program in SBC.

Response to Finding F26

The Board of Supervisors partially agrees with this finding. It should be understood that it is the preferred option that when a Behavioral Health Clinician is requested to implement a Crisis Assessment at the jail that one of the options to implement when necessary is to recommend that the jail implement the process known as 4011.6. Current Behavioral Health Department Jail policy and procedures reflect the option for a mental health clinician to implement the 4011.6 option which is as follows from the Welfare and Institutions Code.

“§ 4011.6. Treatment and evaluation of prisoner; notice; confidential reports; remand to facility; effect on sentence. In any case in which it appears to the person in charge of a county jail, city jail, or juvenile detention facility, or to any judge of a court in the county in which the jail or juvenile detention facility is located, that a person in custody in that jail or juvenile detention facility maybe mentally disordered, he or she may cause the prisoner to be taken to a facility for 72-hour treatment and evaluation pursuant to Section 5150 of the Welfare and Institutions Code.”

The Board of Supervisors believes that there are impediments to exercising this option and they are that psychiatric hospital beds are difficult to find and even more so for an in-custody jail inmate. It should also be noted that the jail has been reluctant to provide the time for jail staff to provide supervision for the duration of the inmate’s hospital stay (as required by any inpatient psychiatric hospital that accepts an “in custody” inmate for admission). The BOS is willing to identify any available psychiatric hospital provider options that might exist for psychiatric hospitalization of “in custody” jail inmates under the 4011.6 option.

Finding F27

BH providing one-way directives to the Jail or other agencies such as LE or HHH ED that significantly impact the other's resources is not appropriate nor in the best interest of the SBC mental health care system.

Response to Finding F27

The Board of Supervisors disagrees with the finding. The BOS is unaware of specific incidents of what the Grand Jury deems as “one way directives”. It is assumed, however, that if one party disagrees with another, that dialogue no doubt occurs. Upon concluding the discussion if the answer is “No, I can’t do that and for these legitimate reasons” that process of discussion is not “one way directives”. People often agree to disagree even when one party cannot achieve the response that benefits them.

SBCBH strives to meet all state and federal regulations regarding the needs of persons with a Serious Mental Illness and/or those in crisis. Meeting the needs of these individuals may impact other agency’s resources. Each organization is mandated to deliver services within their scope of practice and mandated responsibilities, as outlined by state and federal regulations.

Finding F28

The current BH policy incurring significant limits to the Jail staff in making calls to clinicians AND the expanded timeframe the Jail staff endures while waiting for clinicians to arrive at the Jail for assessment has had a substantially negative impact on the Jail.

Response to Finding F28

The Board of Supervisors disagrees with this Finding. The current timeframes for BH response for jail mental health care exceed required Title 15 standards for mental health care for inmates. BH is not responsible for jail staffing patterns and meeting their mandated requirements for the frequency of the jail staff's supervision of inmates. As noted in F5, the Behavioral Health Department has current policies and procedures regarding individuals who may need mental health assessments or treatment. The Behavioral Health Department has worked in coordination with the County Jail on the structuring these policies and procedures regarding individuals who may need mental health assessments, or medication treatment.

Finding F29

Our local government is not considering the strain placed on County Jail Correctional Officers at the SBC Jail due to BH policies, and HHH limitations or as part of a comprehensive SBC mental health care program.

Response to Finding F29

The Board of Supervisors does not make decisions for local government. When multiple systems within the County are incurring a level of stress related to 5150 detentions and the need to have access to available psychiatric hospital beds it is not due to the unwillingness of the County and other involved entities to implement a solution but rather the inability to have the resources to implement the resolution (Build and operate a Psych. Hospital). It must be recognized that San Benito County's experience with people requiring psychiatric hospitals is not unlike most other counties in the state who do not have psychiatric hospital resources within their County. It should be further said that even the counties throughout the state that have psychiatric hospitals also experience the shortage of adequate psychiatric hospital bed availability, such as Los Angeles County, etc. The Behavioral Health Department has current policies and procedures regarding individuals who may need mental health assessments or treatment at the Jail and HHH. The Behavioral Health Department has worked in coordination with the County Jail on structuring policies and procedures regarding individuals who may need mental health assessments, or medication treatment.

Finding F30

Inmates are waiting in a safety cell for a mental health assessment for too long.

Response to Finding F30

The Board of Supervisors does not agree with this Finding. Jail staff follows jail protocols for placing an inmate in a safety cell and the frequency of their supervision of the safety cell as required by Title 15 standards. BH staff responds to requests for a mental health assessment in a timely manner, as per the standards of Title 15. The terminology “too long” is a subjective term used by the Grand Jury and does not reflect the requirements as stated in Title 15 documentation for the duration of time that a mental health assessment must occur within.

Finding F31

Requiring Jail Corrections Officers to conduct 15-minute checks to the Jail's Safety Cell on an extended basis while waiting for mental health clinicians to perform a mental health assessment is unacceptable.

Response to Finding F31

The Board of Supervisors neither agrees nor disagrees with this Finding. BOS has no control, or jurisdiction, over the Title 15 mandates for detention facility staff requirements for frequency of safety cell checks. BH is challenged to meet the Title 15 standards for provision of mental health care in the Jail but does so and meets and sometimes exceeds the existing Title 15 standards of care. Exceeding the requirements of Title 15 is not a mandate and also, with respect to BH resources, it is not feasible for BH to exceed mandated requirements.

Finding F32

Transportation logistics are inadequate. Obtaining and funding the appropriate type of transportation for mental health patients to other facilities with an available bed is problematic.

Response to Finding F32

The Board of Supervisors is in partial agreement with this finding. Respondent has procured a contract provider to provide medical related transportation virtually on-demand if necessary. The BOS does not control transportation provider choices made when the HHH ED implement their EMTALA required transfer of a client still requiring acute emergency services (which include psychiatric care) to a facility that can provide the care that HHH does not provide. The Respondent is aware that the HHH ED has procured a contract provider that has access to a variety of ambulance transport providers. The transportation delays that had at one time existed when the hospital was dependent on a sole provider source (AMR Ambulance Company) seem to have improved substantially.

Finding F34

Inmates are not provided with an adequate facility per Title 15 to accommodate psychiatric evaluation and treatment.

Response to Finding F34

Disagree. The Board of Supervisors, however, in discussion with BH staff has not been apprised of any issues related to BH staff concerns about adequate jail facility space to accommodate their work performed at the jail facility.

Finding F33

There is no established, dedicated, and collaborative committee to confer and effect solutions under BOS oversight to remedy current mental health care problems and to explore the future mental healthcare needs of the county.

Response to Finding F33

The Board of Supervisors disagrees with the Finding. There a number of collaborative committees in the County that meet, such as the Emergency Services Committee, the Behavioral Health Quality Improvement Committee and the Jail Health Services Quality Improvement Committee, etc. BOS opines that whenever multiple systems within the County are incurring a level of stress related to 5150 detentions and the need to have access to available psychiatric hospital beds, it is not due to the unwillingness of the County and other involved entities to implement a solution but rather the inability to have the resources to implement the resolution (Build and operate a Psych. Hospital). It must be recognized that San Benito County's experience with people requiring psychiatric hospitals is not unlike most other counties in the state who do not have psychiatric hospital resources within the County. It should be further said that even the counties throughout the state that have psychiatric hospitals also experience the shortage of adequate psychiatric hospital bed availability, such as Los Angeles County, etc.

Finding F35

SBC Law Enforcement and HPD LE are out of compliance with WIC 5150 by not transporting persons placed under involuntary hold to a facility where the person may receive a mental health evaluation.

Response to Finding F35

The Board of Supervisors disagrees with the Finding. When the Lanterman Petris Short Act created Welfare and Institutions Code 5150 in 1967, it was never perceived that there would be a shortage of available access to designated facilities psychiatric hospital beds. SBC Law Enforcement and HPD LE today would find that a designated psychiatric facility would first require a medical clearance before considering an individual under 5150 detention for admission to their facility, which means an admission at the HHH, ED. Additionally SBC Law Enforcement and HPD LE would likely incur problems in locating a designated facility that would have a psychiatric bed available on demand. Such a facility if found would also require transporting out of the County. It should also be noted that the 5150 statute as pertains to the references made by the Grand Jury states,

*“**may**, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.”*

Any references in statute using the term May, conveys the option to make a choice as opposed to a mandate which is conveyed in statute in terms of Shall or Must.

Finding F36

SBC government does not have an area set aside to construct the augmented infrastructure needed for a psychiatric treatment facility.

Response to Finding F36

The Board of Supervisors agrees with this Finding. The construction and funding of a psychiatric treatment facility is not financially feasible and there is no utilization volume justification for a facility in San Benito County. It would be a multi-million dollar liability for the county. See response to Finding F16. It should be noted that based upon current utilization of psychiatric hospital services, approximately 693 bed days were used in FY 15/16 by the 99 SBC residents who were psychiatrically hospitalized (with an average length of stay of 7 days). If SBC builds and staffs a 16 bed Psychiatric Health Facility, on average only two of the 16 beds (693/5,840 bed days) would be needed by SBC. The financial costs of building and staffing a PHF would be prohibitive with this low census. This financial burden would be incurred by the BOS and general funds.

Finding F37

COG has not considered SBC LTA as an option for transportation in a comprehensive mental health care program or a temporary solution in the shortfall of transportation logistics in SBC for mental health care patients.

Response to Finding F37

The Board of Supervisors disagrees with this Finding. Respondent has procured a contract provider to provide medical transportation to psychiatric Hospitals virtually on-demand if necessary. The Respondent does not control transportation provider choices made when the HHH ED implement their EMTALA required transfer of a client still requiring acute emergency services (which include psychiatric care) to a facility that can provide the care that HHH does not provide. The BOS is aware that the HHH ED has procured a contract provider that has access to a variety of ambulance transport providers. The transportation delays that had at one time existed when the hospital was dependent on a sole provider source (AMR Ambulance Company) seem to have improved substantially. COG and the SBC LTA provide local bus transportation to the Behavioral Health outpatient clinic for individuals seeking voluntary care.

RECOMMENDATIONS

Recommendation R1

F1, F2, F3, F4. The BOS should review Division 5 of the CA Welfare and Institutions Code (CA W&I).

Response to Recommendation R1

The Board of Supervisors believes the recommendation is unwarranted.

Recommendation R2

F1, F2, F3, F10-12, F14, F23, F35. The BOS should make the appropriate designations for both the SBC Mental Health Director and the treatment facility to receive SBC 5150 holds made by LE. Each designation should be official and produced by the BOS in writing. If the facility designated by the BOS is under San Benito Health Care District, Board of Directors (i.e. HHH) management, then both Boards should take note that HHH is not a licensed facility for evaluation or treatment of patients placed in a temporary involuntary hold for mental health reasons. The BOS should be aware that the result of designating HHH as the treatment facility may be to direct LE out of CA WIC compliance, and may result in patient's rights infringement *by exceeding 72-hour limits while attempting to deliver patient care.*

Response to Recommendation R2

It should be recognized that the BOS authority to designate facilities does not include general medical Hospitals, such as Hazel Hawkins Hospital. Psychiatric Facility Designation for a general medical Hospital is under the authority of the State Department of Health Care Services, not the County BOS.

Recommendation R3

F1, F4. The BOS should provide a detailed plan of action indicating steps and initiatives taken in the public interest that put SBC in compliance with Division 5 of the California Welfare and Institutions Code and augments mental health care in SBC. This plan of action should be made in response to this investigation and submitted to the public in time for a review for continuity by the SBC Civil Grand Jury 2016-17.

Response to Recommendation R3

The Board of Supervisors does not agree with the premise of this recommendation as SBC is in compliance with Division 5 of the California Welfare and Institutions Code.

Recommendation R4

F1, F4. The BOS should research and confer with BH to effectively get the attention of the State of CA to provide immediate resources to SBC for psychiatric mental health care assistance.

Response to Recommendation R4

The Board of Supervisors does not agree nor disagree with the recommendation, but advises that if implemented, it would be redundant as the State Department of Health Care Services, County Behavioral Health Departments throughout the State, the California Hospital Association, the California Behavioral Health Directors Association and many other mental health advocacy groups are all aware that there is a shortage of Psychiatric Hospitals. When the member hospitals of the California Hospital Association made a calculated, fiscally-driven decision to get out of the psychiatric hospital business this decision eventually culminated in a shortage of available acute psychiatric hospital beds.

Recommendation R5

F5, F23, F24. LE and HHH ED should begin regularly providing data available to the BOS to track the number of WIC 5150 cases brought to the ED, and the disposition of each one, including total length of stay.

Response to Recommendation R5

The Board of Supervisors does not delegate to the HHH, ED and LE the type of data that each shall maintain, nor to whom they distribute it.

Recommendation R6

F5, F23, F24. HHH and BH ensure that LE receives information about all WIC 5150 individuals that released without further evaluation.

Response to Recommendation R6

The Board of Supervisors agrees that LE should be informed when an individual is released from a 5150, if the legal conditions are met to communicate the information as allowable per the W&I Code. It should be noted that the HHH ED is not a designated facility. As per the W&I Code 5152.1, the professional person in charge of the facility (Meaning Designated facility, such as a Psychiatric Inpatient Hospital) providing 72-hour evaluation and treatment, or his or her designee, shall notify the peace officer who makes the written application, pursuant to Section 5150, or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72-hour detention, when the person is not detained, or when the person is released before the full period of allowable 72-hour detention, if all of the following conditions apply:

- (a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal*

complaint. The notice is limited to the person's name, address, date of admission for 72-hour evaluation and treatment, and date of release.

All State issued 5150 Detention Documents used by the County LE and SBCBH currently include the section on the 5150 form titled, "Notifications to Be Provided to Law Enforcement Agency" with corresponding required text.

Recommendation R7

F4, F5, F6, F23, F24. As a result of collaboration, ALL agencies, and departments that come into contact with those whom may need mental health assessment or treatment should have relevant policies and procedures updated and relevant to one another's on file and shared with other agencies to minimize procedural conflict.

Response to Recommendation R7

This recommendation will be implemented within the next year. It is further noted, the Behavioral Health Department has existing written Policies and Procedures for mental health assessment and treatment. The Behavioral Health Department has previously provided, on request, and will continue to cooperate in providing Behavioral Health Department Policies and Procedures when requested by agencies, and departments that come into contact with those whom may need mental health assessment or treatment.

Recommendation R8

F4, F6, F7, F23. The LE, ED and BH Departments and the Jail are key relationships to one another. Policies and procedures between these agencies should be made with particular attention and supported with a close oversight of the BOS that reflects these dependencies to ensure mental health care program efficiency and success.

Response to Recommendation R8

This recommendation has been implemented. The Behavioral Health Department, however, has existing written Policies and Procedures for mental health assessment and treatment and specifically as pertains to Behavioral Health Department operations and interface with the Jail, LE, and ED.

Recommendation R9

F1, F4, F5, F6, F7, F23. Collaborative effort should begin immediately from all parties for the health and welfare of SBC.

Response to Recommendation R9

The Board of Supervisors believes this recommendation has already been implemented as this recommendation is fulfilled to the extent realistically and legally possible. The Behavioral Health Department provides and coordinates the provision of mental health care for the Jail, and an

extensive level of coordination and interface occurs with ED, when patients requiring mental health services at various levels are admitted to the ED. The Behavioral Health Department is also a regular participant in regularly scheduled Jail Health Care Quality Improvement meetings. The Behavioral Health Department also regularly hosts a Quality Improvement Committee meeting and various stakeholders attend, including Jail Staff, Juvenile Hall, and the HHH representation has been invited. They attend when their schedules allow. The Behavioral Health Department is also participating in the County Emergency Services Committee meetings.

Recommendation R10

F4, F7, F8, F23. SBC BOS establish clear Memorandums of Understanding (MOUs) written by and for the involved agencies, districts that have a separate board, and counties, (i.e. those not operating under the SBC BOS direct authority) to determine and establish agreement upon, and compliance with, local protocol. Also, that the BOS effect policy to maintain these MOUs until superseded by subsequently negotiated agreements.

Response to Recommendation R10

This recommendation has been implemented. The Behavioral Health Department does have an MOU with HHH, HPD, and Sheriff, specific to the issue of 5150 client management. BH also has an MOU with the jail specific to the terms and conditions for utilization of Behavioral Health Psychiatrist, MD services.

Recommendation R11

F1, F4, F10, F11, F12, F14, F23. "Stacking" 5150 holds is bad practice, and may be in violation of CA law. SBC should cease taking liberties with CA legislation concerning persons placed on 5150 holds. All methods available to agencies and departments should be implemented to attempt not to exceed the 72-hour maximum elapsed time from when the hold is initiated by LE, or otherwise, until the point of completed disposition of the patient.

Response to Recommendation R11*This recommendation has been implemented. There were a total of eight (8) individuals during 2015-16 served by the BH staff at the HHH, ED while under WIC 5150 involuntary detention that could not be stabilized and released from the 5150 hold, and BH staff could not find an open psychiatric hospital bed within the first 72 hours of their ED stay. It is an exaggeration to express that the Behavioral Health Department implements a "practice" of "stacking" 5150 holds. It should be understood that in an era of rising drug abuse and /or mental illness, and a shortage of psychiatric hospital beds, that at some time anywhere in California there will be the need to protect mentally unstable individuals and the public by utilizing the WIC 5150 involuntary detention.*

Recommendation R12

F1, F4, F10, F11, F12, F14. F15. BH should not look for, or be compelled to find, creative ways to circumvent the law to extend the 5150 72-hour hold due to SBC's lack of psychiatric treatment resources. BH should not "fudge the start time of the 5150 hold" nor argue that the start time or "hold lift time" is ambiguous. BH's good intention is clear, but working with the BOS to gain the facilities for an outstanding mental health program is optimal. Anything else may be counterproductive to achieving a long-term viable and quality program in SBC. If SBC BH does obtain written official temporary authorization to stack 5150s from the state, SBC should still employ a more strict 5150 72 hold time, and county agencies work together to increase our quality of mental health care under this time constraint. If BH obtains formal approval to stack 5150s given our dire lack of resources, BH's use of the temporary waiver should be done so understanding that it to be used in parallel to a dedicated lobby for establishment and implementation of permanent solutions for SBC.

Response to Recommendation R12

The Board of Supervisors does not agree with this recommendation, and will not implement. The Behavioral Health Department is not "utilizing creative ways to circumvent the law". The 5150 law does not clearly state when the 72 hour clock starts. For example, does it start when the 5150 Form (Titled, Application For Assessment Evaluation And Crisis Intervention Or Placement For Evaluation and Treatment) is filled out or when the individual under 5150 custody is actually admitted to a designated Psychiatric Hospital facility. The 5150 law also does not state when another 5150 may be written, five minutes, five hours, five days? What should BH do when a bed cannot be promptly found in a designated psychiatric hospital for a patient still meeting the criteria to be held on a 5150 detention? A recent poll of mental health directors found that about half consider the start time for the 72 hour clock to be the time that the involuntary detention begins (when the 5150 is written by law enforcement, or written by another person who has the authority to detain a person based on probable cause to that they are a Danger To Self, Danger to Others, or Gravely Disabled, as stated in 5150). The other half of the directors believe the 72 hour clock starts upon admission into a designated, locked inpatient facility (as stated in W&I Code 5150). BH staff's highest priority is to ensure that the needs of the individual are met as quickly as possible and that client and public safety are ensured.

Recommendation R13

F9, F10. Recommended that SBC adopt a model such as Monterey County to consider weekends and holidays as part of the 72-hour period of a 5150 hold regardless of SEIU bargaining demands.

Response to Recommendation R13

The Board of Supervisors does not agree with this recommendation as it is based on an erroneous interpretation of W&I Code 5150 and will not implement this recommendation. It should be understood that the application for this type of waiver applies only to Designated Inpatient Acute Psychiatric Facilities. The waiver application authorization approval is granted by the State Department of Health Care Services. Including weekends and holidays in time accrued to the 72 hour hold period can only be applicable to inpatient psychiatric facilities such as, for example, the Natividad Psychiatric Hospital unit in Monterey County.

Recommendation R14

F1, F4, F10, F12, F23, F32. Both the ED and BH should be responsible for researching and locate bed availability to transfer 5150 persons who cannot receive needed care in SBC. Both departments should be held equally accountable for delays or wait time in the 72 hours to research and find a bed. This policy should be written in a formalized protocol and enforced by the BOS in oversight of the county mental health care program.

Response to Recommendation R14

The Board of Supervisors agrees partially with this recommendation as a protocol already implemented is that both the BH and ED are working in coordination to locate psychiatric bed availability for individuals under 5150 detention that require further psychiatric inpatient care. It would be redundant to have the BOS involved in a process that is already implemented.

Recommendation R15

F1, F10, F11, F12, F14, F15, F23. If individuals object to being involuntarily held during or beyond the 72 hours on a 5150 hold, then the use of the patient's legal rights to judicial review (filing a writ of habeas corpus) process should be brought (again) to the patient's attention by the ED staff. In particular, when medical clearance has processed but a BH assessment is not complete. That is, according to WIC the patient may be reminded that: "If held longer than 72 hours, you have the right to a lawyer and a qualified interpreter and a hearing before a judge. If you are unable to pay for the lawyer, then one will be provided to you free of charge." Notification by the individual to the County Public Defender's office or any other attorney should not be interfered with or discouraged. The individual may also be reminded that if demanding a writ of habeas corpus, the decision whether to file it lies solely with the SBC Public Defender.

Response to Recommendation R15

The Board of Supervisors does not agree with this recommendation and will not implement with further action. The BOS is already in compliance with existing laws and regulations as related to implementation of the WIC 5150. It would not be feasible, nor practical, to layer additional and non-mandated processes onto this process. It would also be inappropriate to include clients who are in a compromised mental state in any additional processes that are unnecessary.

Additionally it is the BOS's observation that the Grand Jury recommendation is based on an erroneous interpretation of a legal writ hearing that is mandated to occur after an individual under 5150 detention has been admitted to a designated psychiatric facility and is about to have their 72 hour hold expire and the facility is considering the implementation of a 14 day certification (otherwise known as a 14 Day Cert. Hearing) that would extend the individuals psychiatric hospitalization for additional time and treatment.

Recommendation R16

F1, F4, F11, F12, F13, F23. The San Benito Health Care District in conjunction with BH and the BOS should develop its own, customized, patient's rights pamphlet to distribute to individuals on a WIC 5150 hold in the ED instead of using what was prepared specifically for Santa Cruz County.

Response to Recommendation R16

The Board of Supervisors does not agree with this recommendation and will not implement, as the BOS does not have authority over the activities of the San Benito Health Care District and specifically the written materials that they choose to distribute to patients admitted to their ED. The State Department of Health Care Services/ Mental Health Division (DHCS) require County Mental Health Departments to provide client access to patient rights advocacy services. The Behavioral Health Department fulfills the mandated requirement through a contract with Advocacy, Inc. to provide patient's rights services at our contracted hospitals, and outpatient programs, on our behalf to assure protection of our client's rights, advisement on legal questions pertaining to mental health (MH) regulations, and assistance for clients filing complaints regarding care we provide either directly or through our contracted providers. The Behavioral Health Department has contracted with Advocacy Inc. since 1989.

Recommendation R17

F1, F14, F18, F23, F24. The HHH ED should cease developing plans to release individuals in need of psychiatric care by "lifting the hold" on WIC 5150s. Any authorization for the ED to use this type of protocol should be made as a result of the SBHCD Board of Directors and the SBC BOS joint approval following multi- departmental, agency, and district collaborations held with The Director, Behavioral Health. When any release is made, LE is to be notified immediately.

Response to Recommendation R17

The Board of Supervisors is in partial agreement with this recommendation as the BOS believes that the HHH ED should not eject clients from the ED if the individual meets the criteria to be held on 5150 hold and is waiting for a facility to receive the appropriate level of care that HHH cannot provide. Such actions if implemented by the HHH ED would constitute a violation of the emergency medical treatment and active labor act (EMTALA), otherwise known as the anti-patient dumping statute. The BOS does not recommend, and will not implement, any action that

would endorse, or appear to legitimize, a practice of ejecting clients from the ED who meet the criteria to be held on 5150 hold and who require a level of care that the HHH cannot provide and require transfer of the individual to a facility that can provide the appropriate level of care.

Recommendation R18

F1, F4, F9, F10, F11, F12, F13, F14, F15. Request immediate assistance from the State of CA, Department of Health and Human Services, before SBC has legal issues regarding patients' civil rights for involuntary detainment beyond the 5150 72-hour holds; and failing to admit a patient for evaluation and treatment because SBC does not have a necessary psychiatric treatment facility.

Response to Recommendation R18

The Board of Supervisors does not agree with, and will not implement, this recommendation as the State Department of Health Care Services is already well aware that counties throughout California are challenged to find resources for on demand availability of psychiatric acute inpatient hospital beds. The BOS is not violating any laws or regulations and there is no mandate that a county is required to operate an inpatient psychiatric treatment facility.

Recommendation R19

F1, F4, F5, F6, F7, F8, F14, F23, F24. Recommend preparation of negotiated agreements among the agencies that share the responsibility of WIC Division 5 management and agreement should include confidentiality in ARTICLE 7. Legal and Civil Rights of Persons Involuntarily Detained [WIG 5325 - 5337] especially Section 5328. This agreement should be established within the meaning of California Civil Code so that one agency may not unilaterally change established procedures which affect any other agency without a new negotiated agreement among the agencies.

Response to Recommendation R19

The Board of Supervisors is unable to respond to this recommendation due to lack of clarity and specificity of the recommendation. For example, recommended with emphasis “especially Section 5328”. The BOS finds WIC 5328 as a reference to Confidential Information and records: disclosure; consent. It is not clear how this applies as a recommendation.

Recommendation R20

F17, F19, F23. As the designated treatment facility, HHH should provide resources to medically clear 5150 hold patients as soon as possible.

Response to Recommendation R20

The Board of Supervisors disagrees with this recommendation, but notes that implementation would be a decision of the HHH Board of Directors. HHH is not a designated facility. The BOS has no authority over HHH and how HHH prioritizes service delivery for the variety of cases that

the ER must provide care. The BOS believes that HHH competently makes priority decisions regarding cases that require the most urgent medical attention.

Recommendation R21

F16, F18, F23, F35. HHH should consider setting up a licensed inpatient area and move 5150s to 5151s for an added 72 hours of evaluation for treatment - then, if necessary, transfer the patient.

Response to Recommendation R21

The Board of Supervisors is not responsible for decisions on the allocation of HHH resources.

Recommendation R22

F17, F18 F19 F20, F21, F22, F23, F35. HHH should consider becoming a licensed psychiatric facility with 7 to 10 beds to help alleviate problematic county mental health issues.

Response to Recommendation R22

The Board of Supervisors is not responsible for decisions on the allocation of HHH resources. The BOS, however, opines that if many hospitals that once operated psychiatric inpatient units, have closed these units due to fiscal unsustainability, it would seem unlikely that HHH would determine that it is financially feasible to develop a psychiatric facility.

Recommendation R23

F1, F17, F18 F19 F20, F21, F22, F23. It is recommended to take pressure off of the ED and BH clinicians by SBC finding at least ten beds for psychiatric care. The SBC BOS and SBHCD Board of Directors should understand that SBC needs to augment mental health care now. El Dorado County has a 10-bed PHF, and Sacramento has a 12-bed PHF; this is a basis to understand CA counties can get the state's support for county mental health care needs.

Response to Recommendation R23

The Board of Supervisors has exceeded implementation of this recommendation through contracts with many Psychiatric Hospitals and a list of even more as potential other resources for psychiatric hospitalization. It should be understood that these hospitals are available on a fee for service basis, meaning a fee is paid only when a bed is used. It would not be fiscally sustainable to pay for reserved bed availability, known as a "dedicated bed payment" basis. Bed rates are expensive and to provide guaranteed payment for purchase of beds full or empty would be very costly. The Behavioral Health Department's historic rate of utilization for hospital beds would not fill 10 beds on a regular basis and that would mean paying for guaranteed bed availability would result in frequent payment for empty beds.

Recommendation R24

F1, F16, F17, F18, F19, F20, F21. Recommended that BOS capture the attention of the state on the basis of the CA Law WIC 5770 which reads: "Notwithstanding any other provision of law, the State Department of Health Care Services may directly, or by contract, with any public or private agency, provide any of the services under this division [WIG Division 5] when the state determines that the services are necessary to protect the public health, safety, or welfare."

Response to Recommendation R24

The Board of Supervisors will not implement as the Board believes that the Grand Jury is misinterpreting the intent of WIC 5770. WIC 5770 pertains to the State Department of Health Care Services (DHCS) contract processes for the delivery of mental health services. The State DHCS predominantly fulfills this statute by contracting with counties to provide mental health services. San Benito County for many years has maintained a Behavioral Health contract with the state and has received corresponding state and federal funding to provide services through the San Benito County Behavioral Health Department.

Recommendation R25

F1, F17-24, F35. SBC leadership and elected officials undergoing the impact of this lacking psychiatric mental health care system together implement an immediate and temporary solution. They should establish locations for a psychiatric crisis center for LE to bring 5150 holds needing assessment and a place to admit patients who require mental health evaluation and treatment as a result of the information provided in this report until effecting permanent solutions.

Response to Recommendation R25

The Board of Supervisors will not implement as the Board believes that the recommendation would cost the county many millions of dollars to fulfill, as well as an ongoing commitment of operating funds that would be unsustainable. Additionally, the respondent believes that based on historical inpatient utilization for admission rates to acute psychiatric hospitals, such an endeavor would not have the utilization level to be cost-effective.

Recommendation R26

F24. The COH should be involved in and conferred with to play a more active role in collaboration, financing, and in establishing plans for future facilities.

Response to Recommendation R26

The Board of Supervisors does not have authority over the City of Hollister. This recommendation is not relevant for a response from the BOS.

Recommendation R27

F1-F8, F16, F25, F26, F27, F28, F29, F30, F31, F34. Recommended that the SBC Sheriff or his SBC Jail representative be present at collaborative meetings when determining SBC mental health care program specifics that include the Jail. A further recommendation is that the Jail update policies and procedures section 609 correctly and reflective of a working mental health care system.

Response to Recommendation R27

This recommendation is already implemented as BH meets on a regular basis with jail staff at their quality improvement meetings to discuss jail health care, including mental health care. Other meetings are held with jail staff as needed, and BH will continue to meet with jail staff to address ongoing needs.

Recommendation R28

F1-F8, F16, F25, F26, F27, F28, F29, F30, F31, F34. BH should no longer provide one-way directives to the jail or other agencies as LE, HHH ED that significantly impact the other's resources. The January 2016 directive to the Jail should be rescinded and re-negotiated and re-established in a collaborative manner. If this includes union bargaining members, the BOS and its council should be notified, consulted, and involved.

Response to Recommendation R28

The Board will not implement at this time. SBCBH strives to meet all state and federal regulations regarding the needs of persons with a Serious Mental Illness and/or those in crisis. Meeting the needs of these individuals may impact other agencies' resources. Each organization is mandated to deliver services within their scope of practice and responsibilities as outlined by state and federal regulations. The BOS is unaware of specific incidents of what the Grand Jury deems as "one way directives".

Recommendation R29

F1, F25-F31, F34. Recommended that related elected officials consider augmenting Jail psychiatric mental health care, either temporarily or permanently, by expanding the existing CFMG medical health care contract. CFMG currently offers this service and SBC currently is in contract with CFMG for other medical care.

Response to Recommendation R29

County will implement this recommendation within the next six months. The County is currently working on an amendment to the CFMG.

Recommendation R30

F1, F4, F5, F7, F14, F28, F29, F30, F34. The recommendation is that every action is taken to eliminate significant delays at the Jail, including but not limited to, policies that exclude BH from being called into the Jail overnight, weekends, or holidays until such time that SBC's mental health care program is viable. Also, until such time when it is determined conclusively

by further investigation that WIC 5150s released from the ED are no longer turning up at the jail needing BH to complete a previously truncated assessment and/or from making arrangements for an appropriate psychiatric evaluation and treatment plan.

Response to Recommendation R30

The Board of Supervisors disagrees with this recommendation and will not implement as there has never been implementation of a policy eliminating behavioral health staff from seeing inmates at the jail during weekends or holidays. The current practice of behavioral health in responding to the jail notably exceeds the Title 15 Jail standards for care and custody of inmates. Behavioral Health staff have and continue to respond to requests to see jail inmates, including during weekends and holidays.

Recommendation R31

F1, F28, F29, F30, F31, F33, F34. BOS consider looking elsewhere for the Jail's mental health (inpatient or outpatient) needs as it does with other medical needs and establish a contract with an outside private facility to refer patients that will agree to work during the night to meet the SBC goals to work to achieve sound mental health care for inmates. If current BH union staff does not wish to assess inmates as needed, not simply adopting a procedure based on the minimums of related law, other resources should be used or shifted, and perhaps BH staff decreased.

Response to Recommendation R31

This recommendation is not clear. The Board will implement an investigation of the Jail's mental health needs over the next 12 months, but will not implement a recommendation to reduce BH staffing is necessary to meet its own existing mandated responsibilities.

Recommendation R32

F1, F4, F7, F8, F9, F10, F12, F18, F23, F24, F32. Recommend that a milestone be that the 72-hour hold is no longer significantly extended after finding a bed and transportation is the only consideration left. BOS should allocate funds from the county's general fund and request, through the Council of Government, that City of Hollister funds also is allocated this year for either BH or SBHCD (HHH) to manage for transport. After locating a patient bed, transport of mental health patients should be readily accessible, efficient, and safe and conducted as soon as possible for the patient. The amount of funds needed annually approximates \$300,000. It is understood this expenditure can reduce as state-funded facilities (such as a PHF) are established in SBC and wherein SBC can conduct mental health evaluations locally.

Response to Recommendation R32

The Board of Supervisors does not agree with, and will not implement, this recommendation. There has never been a practice of intentionally extending 72 hour holds "after finding a bed" for an individual psychiatric hospitalization. Respondent has procured a contract provider to provide medical transportation virtually on-demand if necessary. The BOS does not control

transportation provider choices made when the HHH ED implement their required transfer of a client still requiring acute emergency services (EMTALA, includes psychiatric emergency care) to a facility that can provide the care that HHH does not provide. The BOS is aware that the HHH ED has procured a contract provider that has access to a variety of ambulance transport providers. The transportation delays that had at one time existed when the hospital was dependent on a sole provider source (AMR Ambulance Company) seem to have improved substantially.

Recommendation R33

F1, F8, F14, F16, F23, F32, F33. BOS establish directed protocol that ensures no mental health patient in SBC will forfeit an available bed in another county, to simply be released from the ED specifically due to lack of transport.

Response to Recommendation R33

This recommendation requires further analysis which will be conducted within the next three months. The Board of Supervisors states, however, that individuals meeting the criteria for detention under 5150 authority are and will continue to be detained under 5150 detention by the Behavioral Health Department until such time that a disposition can be implemented that ensures both the individual's and public's safety.

Recommendation R34

F1, F24, F33. BOS and COG evaluate and consult with BH and the Local Transportation Authority (LTA) for possible transport of some types of patients to facilities for voluntary mental health care.

Response to Recommendation R34

Recommendation is already implemented. BH clients who receive voluntary mental health services are able to utilize the existing local bus system. The San Benito County outpatient behavioral health clinic where clients can receive voluntary care is included on the local bus transportation route. When clients are unable to utilize public transportation as a result of their mental illness, case managers and rehabilitation specialists provide transportation to outpatient mental health services.

Recommendation R35

F33, F34 Is it recommended that the BOS have research continued to help determine the concerns of the SBC Juvenile Hall (JH) and the SBC Probation Department policies and procedures in mental health care. Both departments should be consulted and interviewed by independent, nonaligned researchers. Both departments should also participate in future collaboration and planning. The mandates and policies for the mental health care for minors held in detention and parolees stayed outside the scope of this report only due to time

constraints. Members of the SBC Grand Jury 2015-16 working on this research have volunteered to assist with further impartial research and reporting on the needs and impact on these departments if requested. The SBC Grand Jury Foreperson has 2015-16 has contact information.

Response to Recommendation R35

This recommendation has been implemented to the extent that both departments are discussing this issue in a collaborative fashion. Additionally, the Behavioral Health Department does have comprehensive policies and procedures for delivery of mental health care for both the adult jail detention facility and the County Juvenile Hall. The BH has provided mental health services for many years to both facilities and at the level required by Title 15. This recommendation will not be implemented to the extent it calls for the retention of an independent researcher, due to the fact that such step is not necessary at this time.

Recommendation R36

F36. Recommend that due to the inherent delays associated with the construction of a Homeless Facility that SBC local government together identify and the BOS approve an area and property ready to allow the building of a psychiatric treatment facility as soon as state assistance is secured.

Response to Recommendation R36

Will not implement. The Board of Supervisors has previously stated responses with supporting information included in responses to this document regarding the unfeasibility of the County building an inpatient psychiatric facility.

Recommendation R37

The Grand Jury recommends that the BOS, in conjunction with the Council Of Government, evaluate the use of LTA to assist SBC in transportation as part of a temporary or permanent solution to the inherent and problematic logistics of a Mental Healthcare Program in SBC.

Response to Recommendation R37*This evaluation has been implemented. The Board of Supervisors has had discussion with Council of Government regarding transportation specific to concerns expressed by the grand jury report regarding their perceived difficulty with transportation of individuals detained under 5150 authority and their transport to a psychiatric inpatient hospital. The BOS believes the issue of transportation has been resolved. The Behavioral Health Department has procured a contract provider to provide medical transportation virtually on-demand if necessary. The BOS, however, does not control transportation provider choices made when the HHH ED implement their EMTALA required transfer of a client still requiring acute emergency services (which include psychiatric care) to a facility that can provide the care that HHH does not provide. The BOS is aware that the HHH ED has procured a contract provider that has access to a variety of ambulance transport providers.*

The transportation delays that had at one time existed when the hospital was dependent on a sole provider source seem to have improved substantially through the addition of HHH ED access to multiple ambulance transport providers

Recommendation R38

F5, F6, F7, F24, F27, F30, F32, F33. For the good of our community, the SBC BOS establish a committee with members from HHH, BH, City Council, COG, County Jail, LE, Health and Human Services, SBC Probation Department, and three representative members from or appointed by the BOS. The initial meetings should validate Grand Jury findings and compare existing research and documentation surrounding the various issues relevant to the departments, agencies and special districts about 5150, and general mental health care management in our county. The Grand Jury recommends these committee members (or representative) ratios to explore viable resolutions and report to the county:

- City of Hollister Police Department (HPD) 1
- San Benito County Sheriff's Department (SD) 1
- Board of Directors, Hazel Hawkins Hospital (HHH) 2
- San Benito County Board of Supervisors (BOS) 3
- San Benito County Council of Governments (COG) 1
- Hollister City Council 1
- SBC Department of Health and Human Services 1
- San Benito County Probation Department 1
- Behavioral Health Department 2

A formally established Director should be hired as an unbiased county employee consultant to direct the meetings and mediate and negotiate solutions. The BOS should confer with and select an individual to have knowledge, impartial bias, authority, and ability to travel to Sacramento to meet with relevant state authorities to obtain support and meet with all SBC community agencies ensuring their needs met. An ad hoc or permanent committee should be formed as soon as possible, and remain working with authority until formalized solutions for a viable public mental health care system are established from the beginning to end to correctly manage individuals in a temporary involuntary hold placed in SBC's responsibility. No appointees should have cognitive bias from an existing government, agency, or district to avoid counterproductive, or ineffective, resolution.

Response to Recommendation R38

The County will not implement this recommendation at this time. The Board of Supervisor's opinion is that this recommendation is excessive, expensive, and unnecessary. Many of the entities aforementioned and as related to 5150 issues already meet through a number of meetings, such as the Emergency Services Committee, the Behavioral Health Quality Improvement Committee and the Jail Health Services Quality Improvement Committee, etc.

DRAFT



SAN BENITO COUNTY SHERIFF'S OFFICE

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DARREN THOMPSON
SHERIFF-CORONER

September 27, 2017

The Honorable Steven Sanders

Presiding Judge

Superior Court of California, County of San Benito

450 Fourth Street

Hollister, CA 95023-3833

Dear Judge Sanders:

Please find attached hereto our resubmission of a response to the San Benito County Grand Jury Report for FY 2015-2016. The Sheriff's Office is responding at this time to reports addressing the Sheriff's Office Corrections Division. Our initial response dated May 23, 2017 fulfilled Penal Code Section 933 that mandates a response to the Grand Jury Report within 60 days of the report. Upon receipt of your letter dated August 1st, 2017, we have created this modified response. We hope you find it adheres to the California Penal Code, and meets your expectations. We embrace any correspondence from your office, past, present, or future.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Thompson", with a long horizontal flourish extending to the right.

Darren Thompson, San Benito County Sheriff-Coroner

Cc. County Counsel, County Administration

MISSION STATEMENT

TO SERVE THE PUBLIC BY ESTABLISHING A PARTNERSHIP WITH THE COMMUNITY; TO PROTECT LIFE AND PROPERTY,
PREVENT CRIME AND SOLVE PROBLEMS

Finding 1: "The jail requires a full-time, dedicated maintenance person for both preventative maintenance and routine repairs." *We Agree*

Recommendation 1: Employ a full-time, dedicated maintenance person for both preventative maintenance and routine repairs. The employee has his main office at jail and work on other outside Public Works jobs, if needed; not the other way around as is now. Note: If governing bodies plan to address this recommendation with a statement that simply refers to "lack of funds", SBCGJ also recommends this be accompanied by a cost/risk/benefit analysis using hours CO spend on repairs versus other duties; associated risk with CO's taken off the floor to do maintenance and the safety risk of skipping repairs; cost of major repairs due to lack of preventative maintenance; and a list of critical equipment's most recent preventive maintenance and calibrations.

Response to R1: **This recommendation will not be implemented (unreasonable).** This recommendation has a significant budgetary component, and per 933.05(c) of the California Penal Code, a response from the Board of Supervisors should accompany the response of the Sheriff. The Sheriff's Office cannot implement this recommendation until the Board of Supervisors allocates funds for the recommended position.

Finding 2: "The county jail staff excellently runs the jail without critical resources. Though admirable, this cannot nor should not last indefinitely. SBCGJ recognizes the county jail for what it is: a vital community agency, which renders superb service to the public 24 hours a day/7 days a week. The jail staff is commended." *We Agree*

Recommendation 2: Provide the jail with needed resources and staff. The BOS should not become complacent and assert because the jail staff runs the jail well doesn't mean they don't need the additional assets that they continue to request. They make it work because it is a matter of life or death. Not providing the jail with assets penalizes staff for a job well done and keeps the jail running at high stress levels. Staffing is needed specifically during daytime court transports and in the evening for the additional duties specific during the night hours (i.e. when no nurse, medical, or behavior health personnel is on site). Additional staffing should also be regularly provided for planned events when it is known there is a large influx of people into the community, such as the bike rally weekend. Required duties performed per shift clearly indicate the ratio of staff to inmates is at unsafe levels during influx times.

Response to R2: **This recommendation will not be implemented (unreasonable).** This recommendation has a significant budgetary component, and per 933.05(c) of the California Penal Code, a response from the Board of Supervisors should accompany the response of the Sheriff. The Sheriff's Office cannot implement this recommendation until the Board of Supervisors allocates funds for the recommended staffing.

Some portions of the recommendation are within the authority of the Sheriff's Office. Staffing for special events has been provided and will continue to be based on specific intelligence and perceived

needs. Transport has been staffed with one (1) additional deputy for the last two (2) years, creating a total of three (3) transport deputies. There are times when the three (3) deputies assigned to transport are not enough. Overtime is utilized to fill those gaps and will continue to be used. After-hours medical transports are problematic and often result in the floor staffing going below minimum staffing until somebody answers their phone and is ordered in. Patrol is summoned in cases and times of need, leaving the community without the attention of patrol services.

Finding 3: "Incidents of correctional officers injured due to lack of training/use of the safety chair used for violent inmates." *We agree.*

Recommendation 3: Provide the jail staff with needed training. Provide training in extraction and restraint for hostile inmates, specifically in regard to utilizing the safety restraint chair. Having no policy or training on a safety chair used for violent inmates has already led to staff injury. Use of the Restraint Chair is necessary and therefore appropriate training is required.

Response to R3: **This recommendation will not be implemented (unreasonable).** Any person restrained in the chair must be medically reviewed within one hour, and additional assessment conducted every four (4) hours; Title 15 CCR Section 1058. Our inability to use this tool is primarily based on our limited medical coverage of 8 hours per day. It would be unreasonable to expend funding for training on a tool we can rarely use at this time.

Training in the use of the restraint chair was provided to a select group of officers in 2016, but our lack of capacity to provide the medical oversight 16 hours per day diminishes the usability of the chair.

Staff is provided with twenty-four (24) hours of continuing professional training annually which is what is required by Standards & Training for Corrections ("STC"). Annually they are trained in defensive tactics, range, first-aid and a variety of trainings provided locally. Staff is also required to stay current in

Prison Rape Elimination Act ("PREA") training, county required training for supervisors and jail managers. We have met standards regarding our STC training reviews for the last two (2) years.

However there can never be enough training and concerted efforts are being made to identify a robust, meaningful training regimen which is also fiscally responsible and budgetary acceptable.

While use of a restraint chair may be considered necessary under certain circumstances, such use for placement of a combative subject generally takes more staffing resources than we have on-duty at a given time. Although sometimes a valuable tool, the implementation of a restraint chair can produce injury to inmates and staff if that implementation is attempted without sufficient staff. That aside, we only have the necessary medical resources present to utilize the restraint chair for 8 hours per 24-hour period. For additional information regarding the use of restraint chairs, kindly refer to Section 1058 of Title 15. We will evaluate the value of undergoing the training for those occasions when we do have medical services present (8 hours per day) and sufficient staff numbers (periodically).

There is policy that could be authored and distributed almost immediately if and when we have the resources, staff and medical staff, to deploy such a policy. With more staffing and increased medical it will become a viable option in the future.

Finding 4: "Though urgently needed, there is no acceptable and workable protocol for WIC 5150 Psychiatric holds." *We Agree.*

Recommendation 4: Collaboration is vital to determine a workable system for WIC 5150 inmate evaluation and treatment. An agreement needs to be reached between the County Jail and Behavioral Health that is acceptable to both parties in regard to call out procedures; to evaluate suicidal inmates in a more timely manner so that correctional staff is not used for prolonged monitoring of a suicidal inmate or inmates needing other special psychiatric care.

Response to R4: **This recommendation will not be implemented (unreasonable).** Full implementation requires participation from County Behavior Health.

The Assistant County Administrative Officer is involved in facilitating communication and mutual cooperation between the Sheriff's Office and The Department of Behavioral Health which is designed to accomplish this recommendation. It will not be a quick or easy fix. In the interim, we continue to request more medical and psychiatric care in our facility and have engaged the appropriated stakeholders in this effort.

Finding 5: "Additional staffing needed. Required duties performed per shift indicate the ratio of staff to inmates is at unsafe levels during known influx times." *We Agree.*

Recommendation 5: Provide the jail with needed resources and staff. The BOS should not become complacent and assert because the jail staff runs the jail well doesn't mean they don't need the additional assets that they continue to request. They make it work because it is a matter of life or death. Not providing the jail with assets penalizes staff for a job well done and keeps the jail running at high stress levels. Staffing is needed specifically during daytime court transports and in the evening for the additional duties specific during the night hours (i.e. when no nurse, medical, or behavior health personnel is on site). Additional staffing should also be regularly provided for planned events when it is known there is a large influx of people into the community, such as the bike rally weekend. Required duties performed per shift clearly indicate the ratio of staff to inmates is at unsafe levels during influx times.

Response to R5: **This recommendation will not be implemented (unreasonable).** This recommendation has a significant budgetary component, and per 933.05(c) of the California Penal Code, a response from the Board of Supervisors should accompany the response of the Sheriff. The Sheriff's Office cannot implement this recommendation until the Board of Supervisors allocates funds for the recommended staffing.

Staffing for special events has been provided and will continue to be based on specific intelligence and perceived needs. Transport has been staffed with one (1) additional deputy for the last two (2) years, creating a total of three (3) transport deputies. There are times when the three (3) deputies assigned to transport are not enough. Overtime is utilized to fill those gaps and will continue to be used. After-hours medical transports are problematic and often result in the floor staffing going below minimum staffing until somebody answers their phone and is ordered in. Patrol is summoned in cases and times of need.

Finding 6: "Inmate complaints about the quality and portions of food provided at the jail seem warranted." *We Disagree in Part.* Refer to Response to R6 for explanation of our partial agreement.

Recommendation 6: F6, It is time for SBC governing agencies to analyze carefully the potential high costs of the poor quality of food given to people in lock-up. The pervasiveness of food quality complaints by inmates in the SBC Jail is a call for stepped up external oversight. Not simply relying on reports generated by the contractor, the BOS should conduct an in depth management analysis of taxpayers' money spent for inmates in a service contract. This evaluation should review OSHA guidelines for quality assurance; proper food handling; food safety; and that FDA guidelines for nutrition are being provided to inmates. The BOS is strongly encouraged to opt for inspection from an outside nonprofit organization, such as the American Correctional Association.

Response to R6: **This recommendation will not be implemented(unreasonable).** This recommendation is directed to the BOS.

The Grand Jury report indicates receiving "unequivocally" complaints from inmates during their inspection; that food is unpalatable; portions were small, lacked protein and had an unhealthy limited change in variety. Our vendor, Aramark Correctional Services, employs Nutrition and Operational Support Services personnel made up of Registered Dietitians who are dedicated solely to the correctional industry and secured environments. They are responsible for menu planning for the general population, as well as for therapeutic diet needs, in accordance with the standards set by the American Corrections Association and the National Commission of Correctional Health Care. These procedures are standards used by Aramark Correctional Services to:

1. Provide a quality diet program for correctional facilities.
2. Meet recommendations of the American Correctional Association.
3. Meet recommendations of the National Commission on Correctional Health Care of the American Medical Association.

Their regular menu is developed to meet the Recommended Dietary Allowances and the Dietary Reference Intake for the age, sex, and activity level of the jail's population; as specified in the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences. The menu specifies a weekly average of 2600 calories per day, with less than 30% of calories from fat. A nutrition statement is prepared and signed annually by a dietician.

Each year, the San Benito County Health Department conducts their annual inspection. A Registered Dietician from Hazel Hawkins Hospital, a County Registered Nurse and a County Environmental Inspector inspect three sections of the jail; Medical/ Mental Health, Nutrition and the physical plant. The nutrition inspection consists of Food Handling, Frequency of Serving, Minimum Diet, Food Service Plan, Kitchen Facilities, Sanitation and Food Service, Food Serving and Supervision, Disciplinary Isolation Diet, and Medical Diets.

Comments from the 2016 Health Inspection made by Jennifer Bange, MS RD; states that the menu has been approved by the Aramark dietician and is nutritionally adequate. At times substitutions are made to the menu based on food availability at the Santa Rita facility, but the substituted food items are of equivalent nutritional value. Inmates are not given salt packages because of the healthy guidelines on which the menu is based, but a black pepper packet is supplied.

The health inspection report finds that the Aramark menu plan meets Article 1242, Menus; states that menus are planned at least once a month in advance of their use. Menus are planned to provide a variety of foods, thus preventing repetitive meals.

In Ms. Bange's summary of the nutritional evaluation; she states that she reviewed the meal temperature logs as well as the freezer and refrigerator temperature logs. No problems were identified. This was one of the concerns that the Grand Jury expressed.