



## BOARD OF SUPERVISORS

**KEITH CARSON**  
PRESIDENT  
SUPERVISOR, FIFTH DISTRICT

December 20, 2022

Honorable Charles A. Smiley  
Presiding Judge  
Alameda County Superior Court  
1225 Fallon Street, Department One  
Oakland, CA 94612

Dear Judge Smiley:

Section 933 of the California Penal Code requires the Board of Supervisors (Board) to formally comment on Grand Jury findings and recommendations which pertain to matters under the control and authority of the Board.

In accordance with this statutory directive, I am hereby formally submitting the Board's Response to the 2021-2022 Grand Jury Final Report addressing the following investigated areas: "Alameda County Mental Health System Too Complex to Navigate" and "Probate Conservatorship Cries Out for Reform." Also included are departmental responses from Alameda County Behavioral Health, the Public Defender's Office, and the General Services Agency.

Additionally, a separate response from the Sheriff was sent directly to the Grand Jury regarding "Wide-Ranging Safety and Health Care Issues at Santa Rita Jail."

The County's responses were approved by the Board at its meeting of December 20, 2022.

Sincerely,

Keith Carson, President  
Board of Supervisors

KC:SSM:LL  
Attachments

c: Other Members, Board of Supervisors  
County Administrator  
Sheriff  
County Counsel  
General Services Agency Director  
Health Care Services Agency Director  
Alameda County Behavioral Health Director  
Public Defender

# ALAMEDA COUNTY BOARD OF SUPERVISORS MINUTE ORDER

The following action was taken by the Alameda County Board of Supervisors on 12/20/2022

Approved as Recommended  Other

Unanimous  Brown:  Haubert:  Miley:  Valle:  Carson:  -   
Vote Key: N=No; A=Abstain; X=Excused

Documents accompanying this matter:

Documents to be signed by Agency/Purchasing Agent:

File No. 30896  
Item No. 34

Copies sent to:

Marites Ward

Special Notes:



I certify that the foregoing is a correct copy of a Minute Order adopted by the Board of Supervisors, Alameda County, State of California.

ATTEST:  
Clerk of the Board  
Board of Supervisors

By:   
Deputy



SUSAN S. MURANISHI  
COUNTY ADMINISTRATOR

C O U N T Y   A D M I N I S T R A T O R

December 14, 2022

Honorable Board of Supervisors  
County of Alameda  
1221 Oak Street, Suite 536  
Oakland, CA 94612

Dear Board Members:

**SUBJECT: ALAMEDA COUNTY'S RESPONSE TO THE 2021-22 GRAND JURY  
FINAL REPORT**

**RECOMMENDATION:**

- A. Accept and approve Alameda County's Response to the 2021-22 Grand Jury Final Report; and
- B. Authorize the Board President to sign a letter on behalf of the Board of Supervisors formally transmitting Alameda County's Response to the Honorable Charles A. Smiley, Presiding Judge, Superior Court of California, County of Alameda.

**DISCUSSION/SUMMARY:**

Section 933 of the California Penal Code requires the Board of Supervisors to formally comment on Grand Jury findings and recommendations which pertain to matters under the control and authority of the Board.

It is recommended that your Board approve a Response to the 2021-22 Grand Jury Final Report which primarily focuses on findings and recommendations to which your Board was required to comment regarding "Alameda County Mental Health System Too Complex to Navigate" and "Probate Conservatorship Cries Out for Reform," developed in collaboration with the Health Care Services Agency Director, Alameda County Behavioral Health Director, and the Public Defender.

In addition, a separate response from the Sheriff was sent directly to the Grand Jury regarding "Wide-Ranging Safety and Health Care Issues at Santa Rita Jail.". My office will transmit your Board's approved Response in addition to the responses prepared by other County agencies and departments.

**FINANCING:**

There is no impact to net County cost associated with the approval of the recommendations.

**VISION 2026 GOAL:**

Your Board's Response to the 2021-22 Grand Jury Final Report aligns with our Vision 2026 shared vision of a **Thriving and Resilient Population**.

Very truly yours,



Susan S. Muranishi  
County Administrator

SSM:LL  
Attachment

cc: Sheriff  
County Counsel  
General Services Agency Director  
Health Care Services Agency Director  
Alameda County Behavioral Health Director  
Public Defender

## Board of Supervisors' Response to 2021-2022 Alameda County Grand Jury Final Report

### ALAMEDA COUNTY MENTAL HEALTH SYSTEM TOO COMPLEX TO NAVIGATE

#### Finding 8:

The Mental Health Advisory Board, which has strong, knowledgeable, and experienced members and generates excellent ideas, is not used effectively by the Board of Supervisors.

#### Response to Finding 8:

The Board of Supervisors (Board) disagrees with this finding. The Board fully concurs that the Mental Health Advisory Board (MHAB) "has strong, knowledgeable, and experienced members and generates excellent ideas". The Board of Supervisors values the diversity, lived experience and professional expertise of the MHAB members. MHAB recommendations on policies and processes and collaborations with County departments and other stakeholders inform mental health program and service offerings for County residents. Board members have noted progress towards and alignment in Board priority initiatives and several of the MHAB recommendations, including support for funding the Alameda County Behavioral Health Forensic Plan and the expansion of Full-Service Partnerships.

#### Recommendation 13:

The Alameda County Board of Supervisors should better utilize the expertise and skills of the Mental Health Advisory Board. Regular, scheduled Advisory Board presentations to the Board of Supervisors would be useful.

#### Response to Recommendation 13:

The Board of Supervisors disagrees with this finding. The Mental Health Advisory Board's expertise and skills are used to review and evaluate mental health needs in Alameda County. The MHAB submits an annual report to the Board of Supervisors on the needs and performance of the County's mental health system and presents findings and recommendations to the Board in relevant committee meetings. Board members have requested that staff in the relevant agencies develop a comprehensive response to the recommendations of the MHAB and bring that information back to a meeting of the full Board of Supervisors. The Board values the active contributions of the MHAB and its subcommittees and will continue to rely on the expertise of MHAB and its continued partnerships with the relevant County agencies and departments to help shape the County's mental health safety net system.

#### Recommendation 14:

The Alameda County Board of Supervisors should fill the vacant Mental Health Advisory Board positions that the Board of Supervisors is supposed to appoint.

#### Response to Recommendation 14:

The Board agrees with this finding and will continue to actively recruit, assess, and appoint MHAB members in accordance with Welfare and Institutions Code Section 5604. The MHAB has 16 available seats, 3 of which are currently vacant, and recruitment is ongoing. The Board will continue to strive to ensure the MHAB membership includes members of the community who have experience with and knowledge of the mental health system, reflects the diversity of the client population in Alameda County to the extent possible, and represents all geographic regions in the county and their demographics. The Board will also consider appointees recommended by the MHAB.

## **PROBATE CONSERVATORSHIP CRIES OUT FOR REFORM**

### **Finding 15:**

The Public Defender's probate conservatorship unit is severely understaffed and overworked, meaning the proposed conservatees with means receive a far higher level of service than the indigent.

### **Response to Finding 15:**

The Board disagrees with this finding. In June 2022 a second experienced attorney was assigned to probate conservatorship cases. Both attorneys are among the most experienced in the Public Defender's Office. The increase in staffing will allow for more attention to clients. The Board disagrees there are any substantive differences in the quality of representation received by conservatees with means and those without.

### **Finding 17:**

The lack of a contract between Alameda County and its conservatorship defense providers that outlines the expected scope of representation means that not all proposed conservatees receive the same level of service and raises the risk of litigation against the county.

### **Response to Finding 17:**

This recommendation requires further analysis regarding best practices, other options, and the role and responsibilities of the Court versus the County. The Court is responsible for reviewing the billings of defense counsel when the Court (not the County) appoints counsel other than the Public Defender to represent indigent defendants and the County has had limited ability to question the provision of services provided when it has attempted to challenge the billings in Court. The County will provide a further response within the next 90 days.

### **Finding 18:**

Involuntary conservatorship proceedings can quickly drain proposed conservatee's estates, which would not occur under a recorder's fee or grant funded model.

### **Response to Finding 18:**

The Board agrees, generally speaking, that certain involuntary conservatorship proceedings that result in charges to the conservatee's estate have the potential to exhaust a conservatee's estate, and that such would not occur if a different funding source existed. The amount of fees to be paid and whether fees are appropriate is a process that is overseen by the courts in large part as the courts authorize payment of attorneys' fees and review accountings routinely to prevent abuse.

### **Recommendation 20:**

The Alameda County Board of Supervisors must transfer responsibility for conservatorship defense from the Alameda County Public Defender's Office to a separate agency.

### **Response to Recommendation 20:**

The Board will not implement this recommendation because it is not warranted. The Public Defender's Office provides highly competent legal defense services using experienced lawyers. The Public Defender will continue to assess probate conservatorship needs and make staffing and operational adjustments accordingly, as it did in June 2022 by adding an additional attorney dedicated to probate conservatorship cases.

**Recommendation 21:**

The Alameda County Board of Supervisors must establish a written contract with its conservatorship defense provider(s) outlining the standards to be met in order to receive county funding, as set forth in Recommendation 22.

**Response to Recommendation 21:**

This recommendation requires further analysis regarding best practices, other options, and the role and responsibilities of the Court versus the County and defense counsel. The County will endeavor to complete the analysis however, the County is facing unprecedented staffing shortages and must balance completing this function with the full breadth of competing mandatory duties and public health and safety needs of our community. The County will not enter into a contract with the Public Defender because the Public Defender is an employee of the County. The recommendation that the County to enter into a contract with itself calls for a legal fiction.

**Recommendation 22:**

The Alameda County Board of Supervisors must include the following provisions in the written contract(s) named in Recommendation 21:

- a. actions required to establish zealous advocacy, including
  - i. arranging an evaluation of proposed conservatees by a licensed medical professional and/or a social worker,
  - ii. working with regional centers to review individualized program plans (IPPs) for (proposed) conservatees who are regional center clients, to determine whether a less-restrictive alternative is available, and
  - iii. implementing a procedure to follow up with court investigators to ensure thorough and timely investigations,
- b. the length of time an attorney or support staff must perform affirmative outreach after letters of conservatorship are issued,
- c. requirements that the conservatorship defense provider
  - i. establish written attorney training procedures,
  - ii. establish annual attorney performance evaluation procedures,
  - iii. review each case after the conservatorship ends and conduct an "exit interview" or survey with interested parties, and
  - iv. maintain a database of case outcomes.

**Response to Recommendation 22:**

This recommendation requires further analysis regarding best practices, other options, and the role and responsibilities of the Court versus the County and defense counsel. The County will endeavor to complete the analysis however, the County is facing unprecedented staffing shortages and must balance completing this function with the full breadth of competing mandatory duties and public health and safety needs of our community. The County will not enter into a contract with the Public Defender because the Public Defender is an employee of the County. The recommendation that the County to enter into a contract with itself calls for a legal fiction.

**Recommendation 23:**

The Alameda County Board of Supervisors must select a neutral third party to conduct an annual audit of a random sample of conservatorship defense cases to assess attorney performance and determine compliance with probate rules.

**Response to Recommendation 23:**

The Board will implement this recommendation partially and will conduct a limited audit of a random sample of 1% of the Public Defender's cases for each of the last 3-5 years. The Alameda County Public Defender's Office will continue to assess probate conservatorship needs and outcomes and adjust as necessary to ensure effective representation for indigent conservatees.

**Recommendation 24:**

Unless and until there has been a determination as to a new funding model, the Alameda County Board of Supervisors must approve funding for one experienced full-time attorney to be assigned exclusively to the Alameda County Public Defender's probate conservatorship unit.

**Response to Recommendation 24:**

This recommendation has been implemented. The Alameda County Probate Unit has two full-time senior attorneys, each of whom have more than 20 years of litigation experience. The second attorney started in June 2022.

**Recommendation 25:**

The Alameda County Board of Supervisors must direct the Alameda County Public Defender to subscribe to an attorney training service upon hire and for continuing education in the area of probate conservatorship.

**Response to Recommendation 25:**

The Board will not implement this recommendation because it is not warranted. Pursuant to established policy, all Alameda County Public Defenders, including those assigned to probate cases, receive Continuing Legal Education (CLE) compliant training and paid membership to the California Public Defender Association which offers trainings in all areas of public defender practice, including probate conservatorship. Additionally, the two attorneys assigned to probate conservatorship cases are members of the East Bay Trusts and Estate Lawyers Association, a professional organization offering trainings related to probate conservatorship and elder law. The training requirements for Alameda County Public Defenders exceeds the requirements for CLE imposed by the State Bar Association.

**Recommendation 26:**

The Alameda County Board of Supervisors must direct the Alameda County Public Defender to establish annual performance evaluation procedures for conservatorship attorneys.

**Response to Recommendation 26:**

The Board will not implement this recommendation because it is not warranted. Attorneys assigned to the probate conservatorship cases are experienced attorneys who report to a third senior attorney. The current structure of the Public Defender's Office allows for performance issues, should they arise, to be addressed directly through the hierarchy of experienced attorneys and leadership oversight.



**Recommendation 27:**

The Alameda County Board of Supervisors must direct the Alameda County Public Defender and Legal Assistance for Seniors to arrange for each client to be evaluated by a licensed medical professional and/or a social worker.

**Response to Recommendation 27:**

The Board will not implement this recommendation because it is not warranted. Current probate representation practices allow for the assigned attorney to determine whether a client evaluation by a licensed medical professional and/or social worker is needed. The Grand Jury's attempt to mandate a cookie-cutter approach to each case could be wasteful and contribute to an ineffective use of the resources available for conservatorship cases. There should be flexibility to tailor the services provided to the facts of the case, allowing attorneys to seek out services as determined to be necessary, not based on a mandate.

***Communication from the Office of the ACBH Director -***

**DATE:** August 24, 2022  
**TO:** Susan Muranishi, County Administrator  
**CC:** Colleen Chawla, HCSA Director  
**FROM:** Alameda County Behavioral Health Care Services (ACBH) c/o  
Karyn L. Tribble, Director

**SUBJECT: FISCAL YEAR 21-22 GRAND JURY REPORT RESPONSE - ACBH**

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Pursuant to your July 28, 2022, Memorandum, the following response has been submitted in order to detail Alameda County Behavioral Health Care Services (ACBH) response to the recently released Fiscal Year (FY) 2021-2022 Alameda County Grand Jury recently released FY 2021-2022 Report. As you know, the Grand Jury Report highlights operations of various officers, departments, and agencies in Alameda County, based on its findings. There is a section of the report titled "*Alameda County Mental Health System Too Complex to Navigate*," which is a result of the Grand Jury's effort to investigate the challenges faced by adult homeless and near-homeless people and their families as they try to navigate the mental health system to obtain care.

Below lists the Grand Jury Report findings and recommendations, and the corresponding departmental response:

**Findings**

**Finding 1: A County-wide needs/gaps assessment (broader than what MHPA mandates) has not been completed since 2015. A current strategic plan for Alameda County Behavioral Health is missing.**

**• ACBH Response –**

*Disagree. The department maintains that it utilizes several strategies to evaluate county-wide needs and gaps, including recent Mental Health Services Act (MHPA) outreach and other strategies since 2015. Although it does not approach this type of assessment from a single, "needs/gaps" viewpoint, ACBH does instead evaluate current programs, client services, utilization and demographic data, systems of care, and location to determine whether additional investment, expansion, or program recalibration is needed.*



*In early February 2022, ACBH also partnered with California Institute for Behavioral Health Solutions (CIBHS) and Equity and Wellness Institute (EqWi) to lead the efforts in a strategic planning process, in which the department is actively engaged at this time. The strategic planning process has included a variety of strategies to enable clients, family members, stakeholders, organizations, community partners, and governmental agencies to help identify system needs, gaps, and strategies to better inform ongoing departmental planning. This systemwide opportunity for input will help to inform the data gathering already underway through the avenues noted above and will also serve to further enhance the development of systemwide needs assessment.*

*All activities noted above have occurred after 2015 and continue currently.*

**Finding 2: Alameda County mental health data is not well developed, organized, shared, or distributed by ACBH.**

**• ACBH Response –**

*Partially Disagree. ACBH data is well-developed, organized, and managed. It serves as a basis for analysis for a variety of programs and system coordination, including but not limited, contributing to Alameda County's Social Health Information Exchange (SHIE).*

*The department was also evaluated in a recent state-generated assessment, wherein the Summary of Strengths section indicated ACBH produces a "1) a thoughtful and well-developed cultural competence plan and diverse staff; 2) (uses) data to adapt capacity and meet beneficiary crisis needs, resulting in decreased psychiatric inpatient admissions; 3) a (operates a) robust Quality Improvement (QI) work plan and data tracking approach; 4) (uses) Yellowfin dashboards (a complex data management system); and 5) (participates) in the (County's) community Health Information Exchange (HIE)."*

*ACBH Systems of Care have also designed 'push reports' to inform providers so they know when clients have been admitted to crisis, acute inpatient, and subacute settings. These reports are extrapolated from data and shared with providers to highlight performance metrics on a monthly and quarterly basis.*

*EQRO regularly provides documented feedback to ACBH that Alameda County's behavioral health department is one of the highest ranked counties (comparatively) in its ability and capacity to collect and organize data to inform decisions and help guide system planning and clinical work.*

*ACBH does recognize that improvements may be made to publish more outward-facing dashboards, share reports with the public, and display non-protected aggregate data on public websites and in newsletters. The strength of ACBH's reliance upon Yellowfin to develop, organize, and share data through the department's newly redesigned website*

*Specifically, MHSA Community Program Planning (CPP) is the state-mandated, community collaboration process that is used to: assess the current capacity, define the populations to be served and determine strategies to provide effective MHSA-funded programs that are: (1) Culturally Competent; (2) Client and Family-Driven; (3) Wellness, Recovery and Resilience-focused; and (4) Provide an Integrated Service Experience for Clients and their Families.*

*An External Quality Review (EQR) is another method the department undertakes twice yearly, and it is the analysis and evaluation by an External Quality Review Organization (EQRO) of aggregated information on quality, timeliness, and access to the health care services that a managed care plan, or its contractors, furnish to Medicaid beneficiaries. The EQR results in the generation of an annual EQR technical report. This report includes an analysis of system needs, and how the department meets these standards system wide.*

*Network adequacy is often defined as having enough providers within a health plan network to ensure reasonable and timely access to care. At a minimum, health plans should include a sufficient number of providers who deliver mental health and substance use disorder (SUD) services (collectively referred to in this report as behavioral health services) to support access to those services. Beyond a minimum number of providers, adequate networks should have an appropriate geographic distribution of providers who have the capacity to deliver a wide range of services that align with enrollees' needs. Federal Network Adequacy rules governing managed health care plans, including those operated by ACBH, require that states (through counties) have the following responsibilities:*

- Develop and implement time and distance standards for primary and specialty care (adult and pediatric),*
- Develop and implement timely access standards for long-term services and supports (LTSS) providers who travel to the beneficiary to provide services; and*
- Assess and certify the adequacy of a managed care plan's provider network at least annually.*

*In this case, as ACBH serves as the managed care plan, we are consistently evaluating our system needs both as a regulatory practice but also to evaluate the performance of our county clinics and providers in relation to service delivery needs and responsiveness.*

*In 2020 ACBH recalibrated its Forensic System Redesign & Stakeholder work to include a comprehensive plan to serve forensic involved mental health clients. This work included an (1) External Stakeholder Process; (2) Extensive Department-wide Internal Research, Planning & Direct Stakeholder Engagement (In-reach/ Outreach); (3) Consultation from content experts. The resulting plan identified short, medium, and long-term objectives to increase mental health services for forensic involved clients.*

has already been incorporated into a plan for development of greater public dashboard across each System of Care.

**Finding 3: ACBH service contracts are inflexible. ACBH's switch to fee-for-service contracts from performance-based contracts has likely resulted in reduced services available to Alameda County residents.**

- **ACBH Response –**

*Partially Disagree.* ACBH disagrees with elements of this finding. Currently, most contracts are reimbursed on a provisional rate and settled to cost. ACBH is piloting with Full-Service Partnership (FSP) provider contracts a change process from cost-based structures to a Fee-For-Service (FFS) utilization-based payment model. The new payment structure is designed to support quality strategies and provider cost efficiencies. Further, it will position ACBH to implement the California Department of Health Care Services' initiative under California Advancing and Innovating Medi-Cal (CalAIM) to eliminate contract caps, cost-based reimbursement, and the cost settlement process. ACBH plans to expand the payment transformation model in the future to align with CalAIM to increase access and improve quality, thereby reducing complexity for the Medi-Cal program in California including Specialty Behavioral Health services.

In addition, ACBH carefully reviews projected revenues and expenditures and convenes a Budget Workgroup to identify the best use of additional identified funds when available. In Fiscal Year (FY) 21-22, additional funds were used to provide Cost of Living Adjustments (COLA) and systems need expansions in areas where additional services were most needed. In FY 22-23, after much discussion and deliberation, additional funds were used to provide an additional allocation adjustment to help address a staffing crisis far above and beyond that seen in prior FYs which was observed throughout most of our CBO system and substantially impacted service delivery.

*Please Note: The Grand Jury report does not specify which programs/contracts to which the findings and recommendations are attributed other than generally to all and does not specify resources.*

**Finding 4: The mental health record systems of county mental health service providers cannot connect with each other.**

- **ACBH Response –**

*Agree.* Many CBO providers have acquired different electronic health record (EHR) systems. There is an effort at the state level to create a hub that would allow providers to connect with each other.

Also, ACBH is currently in the process of acquiring an EHR system to locally sponsor a mechanism by which all providers may access care, improve service coordination, and make referrals through an integrated health management system.

**Finding 5: Most Alameda County residents have limited knowledge of the ACCESS phone line and its role.**

• **ACBH Response –**

*Agree.* The department agrees that more education is needed across the public to increase awareness and the purpose of its ACCESS line. To that end, ACBH initiated, completed, and publicly posted its plans to improve "ACCESS" across the community – including the degree to which the services are clearly visible and easy to navigate. Strategies both involving understanding county-offered services, accessing care, and making referrals will be provided and circulated throughout the county. Given the establishment of the 988 Suicide and Crisis Lifeline at the national level, and coordination strategies at the state and county levels, ACBH is also synthesizing its efforts and informational instruction on accessing care to include these significant statewide changes to help the public access services or seek support during an emergency or crisis event.

**Finding 6: Although there is a phone line answered by a volunteer from a local mental health provider during hours when ACCESS is not staffed, emergency mental health services for low-income SMI individuals are not offered 24/7 and no crisis referral line/alternative to jail/5150 for immediate care for the SMI when ACCESS is closed.**

• **ACBH Response –**

*Disagree.* Emergency mental health services across the county are also available through the county's Crisis Stabilization Units and Crisis Residential Facilities on a 24-hour basis. These services operate with the purpose of supporting individuals in crisis, and to help divert individuals from jail or psychiatric hospitalization. ACCESS is operated 24/7/365 in alignment with our contract and statutory requirements. ACCESS after-hours support is delivered through an organization (Crisis Support Services (CSS)) contracted by ACBH to perform this function. CSS utilizes an assortment of staff, including clinicians and volunteer Peer Support where appropriate or preferred. In the past several months, ACBH has already initiated and is continuing to work with the organization through a contractual augmentation which will allow for increased recruitment and retention of clinician staff to meet community need.

**Finding 7: Behavioral Health Court is not adequately supported and funded.**

- **ACBH Response –**

*Disagree.* The department has assigned county employees to work within Alameda County's Behavioral Health Court (BHC). These staff monitor, oversee, and coordinate care through this program. Activities within the BHC exist as a collaboration between ACBH, the Courts, the Alameda County District Attorney, and the Alameda County Public Defender. The goal of BHC is to promote public safety and assist severely mentally ill offenders by diverting them away from the criminal justice system and into community treatment.

BHC is a voluntary program that serves to connect client with treatment to right matched care provided by contracted community providers in order improve the quality of life for clients, protect the safety of the community, and reduce recidivism. Based upon real-time and aggregate data available to the department, BHC has capacity to accept additional individuals who meet BHC eligibility criteria and who are accepted by the BHC partners. ACBH is committed to exploring opportunities to support justice involved clients and increase diversion efforts, as appropriate.

**Recommendations**

**Recommendation 1: Alameda County Behavioral Health should develop a community-wide needs/gaps assessment, beyond the scope of what the Mental Health Services Act requires, to guide funding and ensure equity in service delivery. This can help Alameda County Behavioral Health develop a strategic plan to ensure that Alameda County's current approach to mental health services and funding is fully in sync with "Care First, Jail Last" and Alameda County's current needs.**

- **ACBH Response –**

*Status: Implemented & Ongoing.* ACBH is partnering with California Institute for Behavioral Health Solutions (CIBHS) and the Equity and Wellness Institute (EqWI) to complete its Strategic Planning Initiative. Diverse stakeholder feedback, inclusive of County, CBO, family members, and consumers, is being obtained through listening sessions and via survey. Of note, this survey was made available in Alameda County's threshold languages. Survey questions included asking what services/programs are currently offered by ACBH that you consider to be extremely important; services/programs not currently offered by ACBH that should be; top three target populations/communities that ACBH should focus on; top five priority areas of focus for ACBH (i.e., improving services to children and youth; improving coordination between and across provider networks).

*ACBH Workforce Development, Education and Training unit is partnering with the California Department of Health Care Access and Information to obtain county and contracted provider feedback to better understand the Public Mental Health System workforce; aimed at expanding and retaining a culturally diverse workforce. Results from the Health Care Access & Information Survey were submitted as required to meet the August 22, 2022 deadline.*

*ACBH will continue to complete and engage in all External Quality Review on a twice annual basis to consistently assess system needs (and gaps) identified through data and reported through this process. Given that the departmental reviews include both Mental Health and Substance Use services; ACBH will continue to comprehensively evaluate performance and its ability to provide and meet timely access standards developed by the state (Network Adequacy).*

*In addition to the above, ACBH formally endorsed and coordinated the submission of several provider grant applications to the California Department of Health Care Services (DHCS) to develop "launch ready" capital infrastructure projects. This program, called the Behavioral Health Continuum Infrastructure Program (BHCIP), was designed to increase the provision of care in the least restrictive settings by creating a wide range of options including outpatient alternatives, urgent care, peer respite, wellness centers, and social rehabilitation models. In preparation for the submission of these applications, ACBH considered current data related to utilization, client geographic locations, and service need to determine additional system-wide supports needed on behalf of its consumer populations.*

*DHCS ultimately awarded Alameda County Behavioral Health sponsored programs approximately \$14 Million dollars to organizations to fund the development of a Forensic Crisis Residential Treatment program, Crisis Stabilization Units and Crisis Residential Treatment Center, and a Transitional Age Youth Residential and Outpatient Program. ACBH plans to continue to fill system needs and potential service gaps through ongoing planning and partnership with local agencies to support the community through future rounds of BHCIP funds as they become available. ACBH's proactive engagement of BHCIP activities considering the 30-year funding requirement stipulated by DHCS for ongoing services, is further evidence of the County's clear commitment to proactive data-informed community needs assessment, planning, and decision-making. In total, Alameda County will benefit from approximately \$18.4 Million Dollars in capital grants (including an additional project submitted by a single organization).*

**Timeline:** *The Department expects to receive synthesized recommendations from the August Survey by December 2022. The ACBH Strategic Plan and complete set of system wide recommendations are expected to be received by the department by December of 2023. Based upon the results of the Strategic Plan, and results of the Behavioral Health Continuum Infrastructure Program (BHCIP) grant awards launched by the California Department of Health Care Services in the coming years, ACBH further anticipates conducting an updated and formalized system evaluation and assessment by 2026.*



**Recommendation 2: Alameda County Behavioral Health should invest in and improve its data development, organization, sharing, and distribution capabilities. Accurate and complete data-driven analysis and evaluation should direct Alameda County mental health service and funding choices.**

- **ACBH Response –**

*Status: Partially Implemented.* ACBH has invested significant financial resources, infrastructure, planning, and integration of its Data unit. Data-driven analyses routinely inform contracting and program development. The department will continue to invest in and improve its data development, sharing and distribution capabilities. Outward-facing dashboards to showcase provider performance, and other qualitative factors, are currently in development and are expected to be completed and 'published' on the ACBH website by the end of the current fiscal year. **Timeline:** June 2023

**Recommendation 3: Alameda County Behavioral Health should lift contract caps for providers who are overserving their contracts, or at least provide clear protocols for how and when to lift those caps during contract negotiations with service providers.**

- **ACBH Response –**

*Status: Implemented.* ACBH carefully reviews projected revenues and expenditures and convenes a Budget Workgroup to identify the best use of additional identified funds when available. In Fiscal Year (FY) 21-22, additional funds were used to provide Cost of Living Adjustment (COLA) and systems need expansions in areas where additional services were most needed. In FY 22-23, after much discussion and deliberation, additional funds were used to provide an additional allocation adjustment to help address a staffing crisis far above and beyond that seen in prior FYs which was observed throughout most of our CBO system and substantially impacted service delivery.

Besides a standard approach to contract renewal and development, the department also assigns a contract monitor to every organization and/or by program to serve as a liaison to the organization regarding contract issues. Contractors routinely access their Contract Monitor or Operational Lead to discuss contract amount issues on a case-by-case basis. As a result, mid-year adjustments are approved by the department and forwarded to the Board of Supervisors for approval as required.

*Please Note: The Grand Jury report does not specify to which program(s)/contract(s) the recommendation is attributed other than generally. Resources or funding sources have not been identified and does not therefore allow for further response beyond what has been noted above.*

**Recommendation 4: Alameda County Behavioral Health must develop technology that allows uniform interoperability between multiple provider agencies for sharing of medical records.**

- **ACBH Response –**

*Status: Implemented.* The state's Behavioral Health Quality Improvement Program (BHQIP) requires County Behavioral Health Plans to complete Data Exchange milestones between 9/30/22 - 9/30/23. Data Exchange milestones include data sharing agreements between Behavioral Health Plans and Managed Care Plans, federal Interoperability requirements inclusive of data format and security requirements, and required utilization, cost, and clinical data.

ACBH has developed an Implementation Plan in response to this requirement which would address this recommendation.

**Recommendation 5: Alameda County Behavioral Health should add outreach in multiple ways, languages, and venues, including directing materials to law enforcement, health care, social services, and to the general public to instruct them appropriately about ACCESS as both a resource line and a referral line.**

- **ACBH Response –**

*Status: Partially Implemented.* An assessment, work group, and report were completed regarding ACCESS operations during FY 21-22. The report was posted for the public to review and comment on the ACBH website. A series of recommendations were made and prioritized for implementation.

The ACCESS unit is currently undergoing changes to assist with ease of navigation and meet community needs. The recruitment process for new Division Director leadership is currently being completed and will oversee efforts relative to public education, system change, and community-driven access improvement. Although changes relative to county staff require coordination with county Labor and Human Resources, non-personnel structural changes and information to the public is underway and will be continuous. Website modifications, messaging, and partner education is targeted for completion by June 30, 2023. **Timeline:** to complete system-wide change efforts, beyond integration of mental health, substance use, and 988 system coordination; is anticipated to require 24 months to complete (August 2024).

**Recommendation 6: The ACCESS number should be more widely distributed by Alameda County Behavioral Health to the professional and consumer communities. If the ACCESS line is an information and referral line, there should be corresponding easily accessible resource information about mental health programs on ACBH's website and outside of the website, available to the public.**

- **ACBH Response –**

*Status: Partially Implemented.* Numerous brochures publicly posted information in community clinics currently exist and are in circulation currently. However, ACBH is preparing information that will be used to inform the release of a public service announcement and/or video, billboards, and other communications, that may be distributed throughout the community in multiple languages. Website improvements are currently underway and will be updated through the current Calendar year (by December 2022). **Timeline:** for more systematic efforts and public information is planned through the coordination with Health Care Services Agency and new ACCESS Division Leadership and anticipated to be completed by December 2023.

**Recommendation 7: Alameda County Behavioral Health should provide a mental health support/crisis line that is staffed 24-7 as a referral alternative to jail or psychiatric holds.**

- **ACBH Response –**

*Status: Partially Implemented.* ACBH has already coordinated with its contracted provider (CSS) to add professional licensed staff to their cohort of after-hours providers through a contractual augmentation with additional funding. The ACBH Office of the Medical Director and Crisis Services Division are working with CSS to enhance service delivery to include direct clinical assessment and intervention. **Timeline:** to complete this project (initiated in Fiscal Year 2021-22) is expected require multi-year analysis and program evaluation, beyond the initial implementation. This data review and analysis of the new model agreed to by the County and CSS will include strategies designed to effectively coordinate state and local changes to the crisis system. As such, completion and evaluation are likely to be completed by FY end 2024.

**Recommendation 8: Alameda County Behavioral Health must develop enough program slots to meet current needs.**

- **ACBH Response –**

*Status: Implemented.* Federal network adequacy standards are currently being met with regards to service slot and program availability. Developing additional program slots are dependent upon available funding based upon consistent data evaluation and monitoring of client access to care, timeliness standards, and service delivery. Ongoing efforts,

beyond those relative to current or planned expansion will continue through the completion of BHCIP projects (described above) and the department's implementation of the forensic planning efforts.

ACCESS capacity and referrals are tracked, including utilization of outpatient services for all systems of care. This analysis currently enables ACBH to view real-time data on service lines that will require expansion (due to capacity).

Yearly changes and assessment are incorporated into the Network Adequacy certification process. Total Alameda County Medi-Cal beneficiaries serve as the denominator. The numerator is actual beneficiaries served (i.e., actual utilization) which is measured against the anticipated/expected utilization. Yearly capacity determinations are based on a plan of being able to meet/exceed the anticipated/expected utilization. Capacity determinations are further broken down by age groups (i.e., youth, adults) and service types /modalities. These methodologies will continue to be implemented to assist the department with meeting local need and access.

**Recommendation 9: Alameda County Behavioral Health must improve/expand upon its coordination between service providers and ACCESS staff regarding available slots for service by developing appropriate technology to assess available program slots in real time.**

- **ACBH Response –**

*Status: Partially Implemented.* The department has developed a new ACCESS capacity and referral report that provides real time information on outpatient provider capacity that involves all systems of care. *Timeline:* This database and coordinated integration of Yellowfin information will be in full use in its first phase and implementation by the ACCESS division by December 2022. Substance Use Disorder services, referrals, and capacity is planned for the next phase anticipated by 2023.

**Recommendation 10: Alameda County Behavioral Health must provide more transparency in its reporting on Behavioral Health Court and make results of Behavioral Health Court available, including graduation rates, recidivism, and reasons for lack of completion.**

- **ACBH Response –**

*Status: Partially Implemented.* ACBH tracks successful client completion of Behavioral Health Court. *Timeline:* this data will be shared as part of ACBH's forensic dashboard and will be added to ACBH's website by March 2023.

**Recommendation 11: Alameda County Behavioral Health, in collaboration with the courts, should increase the capacity of Behavioral Health Court, based on findings above, to support the “Care First, Jails Last” Board of Supervisors resolution.**

- **ACBH Response –**

*Status: Implemented.* ACBH expanded BHC by four times its previous capacity in FY 2019-2021. BHC needs are regularly assessed to address the Care First, Jails Last Initiative, which ACBH supports.

**Recommendation 12: Alameda County Behavioral Health, in collaboration with the courts, needs to provide data that ensures that Behavioral Health Court is racially and geographically equitable.**

- **ACBH Response –**

*Status: Implemented.* ACBH routinely tracks and provide client-level demographic data (race, gender, area of residence) on who is served by the Behavioral Health Court. This data is used to evaluate service delivery, outcomes, and inform the county on trends relative to the Behavioral Health Court. ACBH similarly supports health equity and unbiased treatment across settings, including within the BHC. However, it is out of the scope of ACBH to determine who is involved with the Courts/justice system and therefore the department has no control on who may be referred to Behavioral Health Court by the legal system.

The department will continue to monitor demographic information and data and retain/transmit this information consistent with ethical standards and legal requirements. ACBH will also continue with its current planning efforts to include publicly viewable posting of data and outcomes to ensure transparency to the community, and accountability across its provider networks.

Alameda County Behavioral Health Care Services is committed to the advancement of health equity, inclusion, and diversity as evidenced by many projects launched in the past fiscal year and in the development of the department's Health Equity Division. ACBH's newly appointed Health Equity Officer oversees this new division and is a member of the Executive Team. Additionally, the ACBH Health Equity Officer now works collaboratively with the newly established Forensic, Diversion, and Re-Entry System of Care leadership to ensure health equity-driven outcomes across settings, including through programs such as the Behavioral Health Court.



BRENDON D. WOODS

*Public Defender*

YOUSEEF J. ELIAS

*Chief Assistant Public Defender*

## MEMORANDUM

DATE: September 8, 2022  
TO: Laura Lloyd, CAO Analyst  
FROM: Brendon D. Woods, Public Defender  
RE: Grand Jury Response

### **Finding 15:**

*The Public Defender's probate conservatorship unit is severely understaffed and overworked, meaning that proposed conservatees with means receive a far higher level of service than the indigent.*

The Public Defender disagrees wholly with the finding.

The Alameda County Public Defender has always been tasked with representing a large number of clients. There is a high volume of cases in all assignments and additional resources are needed across the board in every unit. Probate Conservatorships are no exception. We are fortunate to be able to hire the highest quality attorneys from an extremely competitive applicant pool. Attorneys assigned to handle Probate Conservatorships, like all Public Defender attorneys, have access to the full resources of the office, including the Law & Motions department, Investigations unit, administrative services, and Information/Technology services. While the Probate Conservatorship assignment has historically been a one-person responsibility, performed by a senior attorney, in June 2022 the Public Defender added a second attorney. Both attorneys are among the most experienced in the office. This increase will allow for even more attention to our clients. It will also allow us to accelerate a long-overdue audit that the Public Defender anticipates will confirm that a significant number of cases are categorized as "open" when in fact our representation may be deemed "complete."

It is unclear what is meant by the phrase "higher level of service" in Finding 15. The Public Defender categorically rejects the notion that there is *any* substantive difference in the quality and nature of representation received by those conservatees with substantial estates and those without.

**Finding 16:**

*The failure of the Public Defender to gather data on conservatorship case outcomes, implement formal training procedures, and establish a formal grievance process for clients, in addition to its reliance on paper files, hampers its ability to identify trends, stay up to date on best practices, and learn from past experience.*

The Public Defender disagrees partially with both the premises and conclusions of this finding.

*Data Gathering:* The Public Defender is a strong proponent of data collection and analysis both within its practice and across the broader criminal justice community. Data gathering and analysis can, of course, be resource intensive. The Public Defender welcomes the expansion of its data gathering capacity as the Board of Supervisors deems appropriate and chooses to allocate funds to increase our capacity to collect data. Probate Conservatorship attorneys have met to discuss what types of data collection might be productive and whether that process can be incorporated into work already being done to update the Public Defender's records management software (JCATS).

*Training Procedures:* Please refer to the Public Defender's response to Recommendation 25.

*Formal Grievance Process:* While there is no formal written grievance process, clients always have the opportunity to speak to a supervisor/manager if they are not happy with the representation they or a family member are receiving. Experience throughout our office indicates that they do not hesitate to do so when concerns arise. Complaints are received and reviewed seriously, always with an eye toward ensuring that we provide the best possible representation to our clients.

**Finding 18:**

*Involuntary conservatorship proceedings can quickly drain proposed conservatees' estates, which would not occur under a recorder's fee- or grant-funded model.*

To the extent Finding 18 is a general observation, the Public Defender agrees that any form of estate-funded legal proceedings will, by definition, reduce the size of an estate more than if those proceedings were free, or funded in some other way.

To the extent Finding 18 specifically relates to the Public Defender, the Public Defender wholly disagrees because Public Defender legal fees do not play a significant role in depleting

conservatees' estates. Indeed, the Public Defender's involvement can help prevent the depletion of conservatees' estates.

First, the majority of Public Defender probate conservatorship cases are limited conservatorships (approximately 80%). The Public Defender does not receive any fees in limited conservatorship cases.

Second, the Public Defender only occasionally receives fees related to general conservatorships (the other 20% of our practice). This is for multiple reasons. To begin with, conservatees with an estate large enough to bill are represented by Legal Assistance for Seniors, not the Public Defender, pursuant to Local Rule 7.820. Furthermore, the Public Defender doesn't petition for fees in any case to which we are assigned. In the narrow category of cases where there is an estate, *and* the Public Defender has been appointed, *and* the conservator is the Alameda County Public Guardian, then the Public Guardian's attorney (County Counsel) petitions for fees according to a fee schedule established in Superior Court Local Rules Appendix C. County Counsel petitions for fees for all County entities (Public Guardian, County Counsel, and Public Defender) and then the probate judge rules on the petition. In fiscal year 2021-2022, for example, the Public Defender received fees in just 51 probate conservatorships. In 21 of those cases the Public Defender completed its services, meaning that our fees are not on-going.

It should be noted that in non-Public Guardian cases, the Public Defender carefully reviews any fee petitions submitted by other professionals (attorneys and conservators, for example) and objects to and questions the fee petition when appropriate.

**Recommendation 24:**

*Unless and until there has been a determination as to a new funding model, the Alameda County Board of Supervisors must approve funding for one experienced full-time attorney to be assigned exclusively to the Alameda County Public Defender's probate conservatorship unit.*

The recommendation has been implemented.

The Alameda County Public Defender Probate Unit now has two full-time senior attorneys assigned, each of whom has more than 20 years of litigation experience. The second attorney started on June 6, 2022. Historically, the unit had been staffed by a single experienced senior attorney with previous practice in juvenile court, mental health court, and collaborative courts. Alameda County Public Defender Brendon Woods made the decision to staff a second lawyer to



the Probate department well in advance of this report. No additional funding has been provided by the Alameda County Board of Supervisors for the reassigned attorney.

**Recommendation 25:**

*The Alameda County Board of Supervisors must direct the Alameda County Public Defender to subscribe to an attorney training service upon hire and for continuing education in the area of probate conservatorship.*

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

Alameda County Public Defender written policy requires attorneys to “remain current in the law and ...work proactively and continuously to broaden and strengthen their skills in whatever assignment they hold in the office.” This requirement is above and beyond the requirements for Continuing Legal Education (CLE) imposed by the State Bar. To help meet these expectations, the office’s legal training department produces CLE-compliant training sessions throughout the year, which are attended by Public Defender attorneys, members of the Alameda County bar at large, and even members of public defender offices in other counties. Furthermore, all Alameda County Public Defenders receive paid memberships to the California Public Defender Association (CPDA), which offers trainings in all areas of public defender practice (including probate conservatorships), maintains an archive of past trainings, and also hosts a list-serve for probate conservatorship practitioners.

Public Defender lawyers thus receive far more training, in a far greater diversity of topics and skills, than is required or is typical of the average lawyer.

Additionally, the two attorneys assigned to Probate Conservatorships are members of the East Bay Trusts and Estates Lawyers (EBTEL) association. This professional organization offers specialized trainings on topics related to probate conservatorships and elder law, including an annual “recent developments” program discussing the latest changes in the law, and an annual one-day “boot camp” seminar covering subjects that include conservatorships. EBTEL also has an attorney list-serve where members can email questions about issues they encounter in conservatorship cases. Each attorney has also availed himself of CPDA training materials (see above) specifically related to probate conservatorships.

**Recommendation 26:**

*The Alameda County Board of Supervisors must direct the Alameda County Public Defender to establish annual performance evaluation procedures for conservatorship attorneys.*

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

As explained previously, attorneys assigned to Probate Conservatorship have always been experienced senior attorneys. The two attorneys currently assigned to the unit are among the most experienced in the office. Each has himself previously supervised Public Defender branch offices, including reviewing and evaluating younger attorneys. Their unit is supervised by a third senior attorney, who also has probate conservatorship experience. In short, performance issues—should any arise—are easily and swiftly addressed directly within this small and experienced group. In these circumstances formalized annual evaluations are superfluous and cumbersome.

**Alameda County General Services Agency**

**Response to the 2021-2022 Alameda County Grand Jury Final Report**

**Findings 19-21; Recommendations 28-32**

**Santa Rita Jail Facility Safety**

**Finding 19**

High-risk safety code violations exist within the Santa Rita Jail. These include:

- a. High-voltage electrical wiring not installed in accordance with code.

The General Services Agency (GSA) disagrees partially as the wiring is installed in accordance with code and cords are designed and supplied by the manufacturer; however, to ensure greater safety, GSA hardwired the emergency lighting wall pack and placed it in conduit. Additionally, GSA replaced the cables to the freezer door heating element and placed anti fray protection on these cables.

- b. Obstruction of access to emergency safety equipment.

GSA agrees with the finding. GSA removed pallets that were blocking eye wash stations, installed bollards, and painted the floors as a preventative measure.

- c. Emergency safety equipment for which testing, and maintenance are out of date.

GSA agrees with this finding, and testing and maintenance are up to date.

- d. Unlabeled emergency-stop controls on industrial equipment.

GSA agrees with this finding, and has now ensured that all emergency stop controls are labeled on industrial equipment.

- e. Inconsistent signage on hazardous waste disposal containers.

GSA agrees with this finding and the issue has been corrected.

- f. Instances of missing temperature-monitoring data for food storage refrigerators.

GSA defers this response to the Alameda County Sheriff's Office (ACSO) as food storage refrigerators are managed by Aramark a contractor under ACSO's oversight.

**Finding 20**

The absence of periodic, proactive reviews of the Santa Rita Jail facility's condition increases the risk that critical issues will be undetected and unaddressed until they result in an injury or operational disruption.

GSA disagrees wholly or partially with this finding. GSA performs preventative maintenance services to equipment in intervals based on manufacturers recommendations. These

intervals are scheduled in Corrigo, a facility maintenance management platform that generates work orders. In addition, Sheriff deputies inspect the facilities on routine schedules and report corrective maintenance to the GSA Building Maintenance Department through the work order system. GSA performed a five-year facility needs assessment in 2019 to identify major maintenance and equipment lifecycle timelines. The facility needs are reported in the County's five-year capital plan.

**Finding 21**

Inspections of the Santa Rita Jail facility conducted by the Board of State and Community Corrections do not include participation of Alameda County General Services Agency staff responsible for the condition and maintenance of the jail facility, resulting in a missed opportunity for valuable exchange between inspectors and county staff and potentially unnecessary delays in addressing issues identified during inspections.

GSA disagrees partially with this finding. The GSA Building Maintenance Department Facility Manager or designee is a participant in the BSCC inspections. There may have been rare instances where this did not occur due to communications related to staffing changes. ACSO and GSA have discussed this concern to ensure GSA BMD's participation.

**Recommendation 28:**

The Alameda County Sheriff's Office must remediate the following issues and verify full compliance with applicable codes:

- a. Electrical connection to ovens and tablet-charging stations within housing units.

ACSO and GSA BMD have reviewed the recommendation and confirmed that this will require work in all housing units. GSA BMD is developing a plan that will need to be reviewed by ACSO and coordinated with several other priority projects in the facility.

- b. Provide permanent floor marking to demarcate area that must be kept clear around eyewash station in kitchen.

This recommendation was completed.

- c. Bring current the testing and maintenance for eyewash station in kitchen and incorporate the necessary periodic reviews into preventive maintenance scheduling system.

This recommendation was completed.

- d. Ensure presence and readability of all emergency-stop controls in kitchen. GSA completed this recommendation.

This recommendation was completed.

- e. Attach signage for PPE/hazardous waste disposal to disposal containers.

This recommendation was completed.

**Recommendation 29:**

The Alameda County Sheriff's Office must conduct a facility-wide audit for health and safety code issues to be led by a subject matter expert and review results with the jail commander and the Alameda County General Services Agency (GSA) manager on completion.

The recommendation is not warranted given that there are several facility-wide inspections in place. In addition to facility inspections managed by ACSO, GSA oversees an annual facility-wide safety assessment performed by Du-All Safety as the subject matter expert, and fire life safety systems are inspected quarterly by Battalion One a qualified inspection company.

**Recommendation 30:**

The Alameda County Sheriff's Office must incorporate into the Santa Rita Jail facility operation procedures a requirement for a semiannual facility-wide safety inspection to include the jail commander, the GSA facility manager, and a facility health and safety code expert. Document these results in a written report and add any issues identified to the facility's maintenance issue tracking system.

The recommendation is being reviewed considering the existing inspections that already occur. GSA BMD performs annual safety inspections as noted in response to recommendation 29. The results are shared with ACSO command staff. Mitigations or corrective measures are implemented and tracked in Corrigo the maintenance management platform.

**Recommendation 31:**

**The Alameda County Sheriff's Office must inform GSA of all Santa Rita Jail inspections by the Board of State and Community Corrections or any other third-party entities.**

This process is already in place. The GSA BMD Facility Manager is notified of all inspections by the Board of State and Community Corrections or other third-party entities.

**Recommendation 32:**

**The Alameda County General Services Agency must require a GSA Facility Manager be present during all Board of State and Community Corrections and other Santa Rita Jail facility inspections.**

The process is already in place. GSA requires that the BMD SRJ Facility Manager attends facility inspections or designates the Facility Supervisor in his absence.

## Board of Supervisors' Response to 2021-2022 Alameda County Grand Jury Final Report

### ALAMEDA COUNTY MENTAL HEALTH SYSTEM TOO COMPLEX TO NAVIGATE

#### Finding 8:

The Mental Health Advisory Board, which has strong, knowledgeable, and experienced members and generates excellent ideas, is not used effectively by the Board of Supervisors.

#### Response to Finding 8:

The Board of Supervisors (Board) disagrees with this finding. The Board fully concurs that the Mental Health Advisory Board (MHAB) "has strong, knowledgeable, and experienced members and generates excellent ideas". The Board of Supervisors values the diversity, lived experience and professional expertise of the MHAB members. MHAB recommendations on policies and processes and collaborations with County departments and other stakeholders inform mental health program and service offerings for County residents. Board members have noted progress towards and alignment in Board priority initiatives and several of the MHAB recommendations, including support for funding the Alameda County Behavioral Health Forensic Plan and the expansion of Full-Service Partnerships.

#### Recommendation 13:

The Alameda County Board of Supervisors should better utilize the expertise and skills of the Mental Health Advisory Board. Regular, scheduled Advisory Board presentations to the Board of Supervisors would be useful.

#### Response to Recommendation 13:

The Board of Supervisors disagrees with this finding. The Mental Health Advisory Board's expertise and skills are used to review and evaluate mental health needs in Alameda County. The MHAB submits an annual report to the Board of Supervisors on the needs and performance of the County's mental health system and presents findings and recommendations to the Board in relevant committee meetings. Board members have requested that staff in the relevant agencies develop a comprehensive response to the recommendations of the MHAB and bring that information back to a meeting of the full Board of Supervisors. The Board values the active contributions of the MHAB and its subcommittees and will continue to rely on the expertise of MHAB and its continued partnerships with the relevant County agencies and departments to help shape the County's mental health safety net system.

#### Recommendation 14:

The Alameda County Board of Supervisors should fill the vacant Mental Health Advisory Board positions that the Board of Supervisors is supposed to appoint.

#### Response to Recommendation 14:

The Board agrees with this finding and will continue to actively recruit, assess, and appoint MHAB members in accordance with Welfare and Institutions Code Section 5604. The MHAB has 16 available seats, 3 of which are currently vacant, and recruitment is ongoing. The Board will continue to strive to ensure the MHAB membership includes members of the community who have experience with and knowledge of the mental health system, reflects the diversity of the client population in Alameda County to the extent possible, and represents all geographic regions in the county and their demographics. The Board will also consider appointees recommended by the MHAB.

## **PROBATE CONSERVATORSHIP CRIES OUT FOR REFORM**

### **Finding 15:**

The Public Defender's probate conservatorship unit is severely understaffed and overworked, meaning the proposed conservatees with means receive a far higher level of service than the indigent.

### **Response to Finding 15:**

The Board disagrees with this finding. In June 2022 a second experienced attorney was assigned to probate conservatorship cases. Both attorneys are among the most experienced in the Public Defender's Office. The increase in staffing will allow for more attention to clients. The Board disagrees there are any substantive differences in the quality of representation received by conservatees with means and those without.

### **Finding 17:**

The lack of a contract between Alameda County and its conservatorship defense providers that outlines the expected scope of representation means that not all proposed conservatees receive the same level of service and raises the risk of litigation against the county.

### **Response to Finding 17:**

This recommendation requires further analysis regarding best practices, other options, and the role and responsibilities of the Court versus the County. The Court is responsible for reviewing the billings of defense counsel when the Court (not the County) appoints counsel other than the Public Defender to represent indigent defendants and the County has had limited ability to question the provision of services provided when it has attempted to challenge the billings in Court. The County will provide a further response within the next 90 days.

### **Finding 18:**

Involuntary conservatorship proceedings can quickly drain proposed conservatee's estates, which would not occur under a recorder's fee or grant funded model.

### **Response to Finding 18:**

The Board agrees, generally speaking, that certain involuntary conservatorship proceedings that result in charges to the conservatee's estate have the potential to exhaust a conservatee's estate, and that such would not occur if a different funding source existed. The amount of fees to be paid and whether fees are appropriate is a process that is overseen by the courts in large part as the courts authorize payment of attorneys' fees and review accountings routinely to prevent abuse.

### **Recommendation 20:**

The Alameda County Board of Supervisors must transfer responsibility for conservatorship defense from the Alameda County Public Defender's Office to a separate agency.

### **Response to Recommendation 20:**

The Board will not implement this recommendation because it is not warranted. The Public Defender's Office provides highly competent legal defense services using experienced lawyers. The Public Defender will continue to assess probate conservatorship needs and make staffing and operational adjustments accordingly, as it did in June 2022 by adding an additional attorney dedicated to probate conservatorship cases.



**Recommendation 21:**

The Alameda County Board of Supervisors must establish a written contract with its conservatorship defense provider(s) outlining the standards to be met in order to receive county funding, as set forth in Recommendation 22.

**Response to Recommendation 21:**

This recommendation requires further analysis regarding best practices, other options, and the role and responsibilities of the Court versus the County and defense counsel. The County will endeavor to complete the analysis however, the County is facing unprecedented staffing shortages and must balance completing this function with the full breadth of competing mandatory duties and public health and safety needs of our community. The County will not enter into a contract with the Public Defender because the Public Defender is an employee of the County. The recommendation that the County to enter into a contract with itself calls for a legal fiction.

**Recommendation 22:**

The Alameda County Board of Supervisors must include the following provisions in the written contract(s) named in Recommendation 21:

- a. actions required to establish zealous advocacy, including
  - i. arranging an evaluation of proposed conservatees by a licensed medical professional and/or a social worker,
  - ii. working with regional centers to review individualized program plans (IPPs) for (proposed) conservatees who are regional center clients, to determine whether a less-restrictive alternative is available, and
  - iii. implementing a procedure to follow up with court investigators to ensure thorough and timely investigations,
- b. the length of time an attorney or support staff must perform affirmative outreach after letters of conservatorship are issued,
- c. requirements that the conservatorship defense provider
  - i. establish written attorney training procedures,
  - ii. establish annual attorney performance evaluation procedures,
  - iii. review each case after the conservatorship ends and conduct an "exit interview" or survey with interested parties, and
  - iv. maintain a database of case outcomes.

**Response to Recommendation 22:**

This recommendation requires further analysis regarding best practices, other options, and the role and responsibilities of the Court versus the County and defense counsel. The County will endeavor to complete the analysis however, the County is facing unprecedented staffing shortages and must balance completing this function with the full breadth of competing mandatory duties and public health and safety needs of our community. The County will not enter into a contract with the Public Defender because the Public Defender is an employee of the County. The recommendation that the County to enter into a contract with itself calls for a legal fiction.

**Recommendation 23:**

The Alameda County Board of Supervisors must select a neutral third party to conduct an annual audit of a random sample of conservatorship defense cases to assess attorney performance and determine compliance with probate rules.

**Response to Recommendation 23:**

The Board will implement this recommendation partially and will conduct a limited audit of a random sample of 1% of the Public Defender's cases for each of the last 3-5 years. The Alameda County Public Defender's Office will continue to assess probate conservatorship needs and outcomes and adjust as necessary to ensure effective representation for indigent conservatees.

**Recommendation 24:**

Unless and until there has been a determination as to a new funding model, the Alameda County Board of Supervisors must approve funding for one experienced full-time attorney to be assigned exclusively to the Alameda County Public Defender's probate conservatorship unit.

**Response to Recommendation 24:**

This recommendation has been implemented. The Alameda County Probate Unit has two full-time senior attorneys, each of whom have more than 20 years of litigation experience. The second attorney started in June 2022.

**Recommendation 25:**

The Alameda County Board of Supervisors must direct the Alameda County Public Defender to subscribe to an attorney training service upon hire and for continuing education in the area of probate conservatorship.

**Response to Recommendation 25:**

The Board will not implement this recommendation because it is not warranted. Pursuant to established policy, all Alameda County Public Defenders, including those assigned to probate cases, receive Continuing Legal Education (CLE) compliant training and paid membership to the California Public Defender Association which offers trainings in all areas of public defender practice, including probate conservatorship. Additionally, the two attorneys assigned to probate conservatorship cases are members of the East Bay Trusts and Estate Lawyers Association, a professional organization offering trainings related to probate conservatorship and elder law. The training requirements for Alameda County Public Defenders exceeds the requirements for CLE imposed by the State Bar Association.

**Recommendation 26:**

The Alameda County Board of Supervisors must direct the Alameda County Public Defender to establish annual performance evaluation procedures for conservatorship attorneys.

**Response to Recommendation 26:**

The Board will not implement this recommendation because it is not warranted. Attorneys assigned to the probate conservatorship cases are experienced attorneys who report to a third senior attorney. The current structure of the Public Defender's Office allows for performance issues, should they arise, to be addressed directly through the hierarchy of experienced attorneys and leadership oversight.

**Recommendation 27:**

The Alameda County Board of Supervisors must direct the Alameda County Public Defender and Legal Assistance for Seniors to arrange for each client to be evaluated by a licensed medical professional and/or a social worker.

**Response to Recommendation 27:**

The Board will not implement this recommendation because it is not warranted. Current probate representation practices allow for the assigned attorney to determine whether a client evaluation by a licensed medical professional and/or social worker is needed. The Grand Jury's attempt to mandate a cookie-cutter approach to each case could be wasteful and contribute to an ineffective use of the resources available for conservatorship cases. There should be flexibility to tailor the services provided to the facts of the case, allowing attorneys to seek out services as determined to be necessary, not based on a mandate.

# DEPARTMENT RESPONSES

***Communication from the Office of the ACBH Director -***

**DATE:** August 24, 2022  
**TO:** Susan Muranishi, County Administrator  
**CC:** Colleen Chawla, HCSA Director  
**FROM:** Alameda County Behavioral Health Care Services (ACBH) c/o  
Karyn L. Tribble, Director

**SUBJECT: FISCAL YEAR 21-22 GRAND JURY REPORT RESPONSE - ACBH**

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Pursuant to your July 28, 2022, Memorandum, the following response has been submitted in order to detail Alameda County Behavioral Health Care Services (ACBH) response to the recently released Fiscal Year (FY) 2021-2022 Alameda County Grand Jury recently released FY 2021-2022 Report. As you know, the Grand Jury Report highlights operations of various officers, departments, and agencies in Alameda County, based on its findings. There is a section of the report titled "*Alameda County Mental Health System Too Complex to Navigate*," which is a result of the Grand Jury's effort to investigate the challenges faced by adult homeless and near-homeless people and their families as they try to navigate the mental health system to obtain care.

Below lists the Grand Jury Report findings and recommendations, and the corresponding departmental response:

**Findings**

**Finding 1: A County-wide needs/gaps assessment (broader than what MHPA mandates) has not been completed since 2015. A current strategic plan for Alameda County Behavioral Health is missing.**

• ***ACBH Response –***

*Disagree. The department maintains that it utilizes several strategies to evaluate county-wide needs and gaps, including recent Mental Health Services Act (MHPA) outreach and other strategies since 2015. Although it does not approach this type of assessment from a single, "needs/gaps" viewpoint, ACBH does instead evaluate current programs, client services, utilization and demographic data, systems of care, and location to determine whether additional investment, expansion, or program recalibration is needed.*



*Specifically, MHS Community Program Planning (CPP) is the state-mandated, community collaboration process that is used to: assess the current capacity, define the populations to be served and determine strategies to provide effective MHS-funded programs that are: (1) Culturally Competent; (2) Client and Family-Driven; (3) Wellness, Recovery and Resilience-focused; and (4) Provide an Integrated Service Experience for Clients and their Families.*

*An External Quality Review (EQR) is another method the department undertakes twice yearly, and it is the analysis and evaluation by an External Quality Review Organization (EQRO) of aggregated information on quality, timeliness, and access to the health care services that a managed care plan, or its contractors, furnish to Medicaid beneficiaries. The EQR results in the generation of an annual EQR technical report. This report includes an analysis of system needs, and how the department meets these standards system wide.*

*Network adequacy is often defined as having enough providers within a health plan network to ensure reasonable and timely access to care. At a minimum, health plans should include a sufficient number of providers who deliver mental health and substance use disorder (SUD) services (collectively referred to in this report as behavioral health services) to support access to those services. Beyond a minimum number of providers, adequate networks should have an appropriate geographic distribution of providers who have the capacity to deliver a wide range of services that align with enrollees' needs. Federal Network Adequacy rules governing managed health care plans, including those operated by ACBH, require that states (through counties) have the following responsibilities:*

- Develop and implement time and distance standards for primary and specialty care (adult and pediatric),*
- Develop and implement timely access standards for long-term services and supports (LTSS) providers who travel to the beneficiary to provide services; and*
- Assess and certify the adequacy of a managed care plan's provider network at least annually.*

*In this case, as ACBH serves as the managed care plan, we are consistently evaluating our system needs both as a regulatory practice but also to evaluate the performance of our county clinics and providers in relation to service delivery needs and responsiveness.*

*In 2020 ACBH recalibrated its Forensic System Redesign & Stakeholder work to include a comprehensive plan to serve forensic involved mental health clients. This work included an (1) External Stakeholder Process; (2) Extensive Department-wide Internal Research, Planning & Direct Stakeholder Engagement (In-reach/ Outreach); (3) Consultation from content experts. The resulting plan identified short, medium, and long-term objectives to increase mental health services for forensic involved clients.*

*In early February 2022, ACBH also partnered with California Institute for Behavioral Health Solutions (CIBHS) and Equity and Wellness Institute (EqWi) to lead the efforts in a strategic planning process, in which the department is actively engaged at this time. The strategic planning process has included a variety of strategies to enable clients, family members, stakeholders, organizations, community partners, and governmental agencies to help identify system needs, gaps, and strategies to better inform ongoing departmental planning. This systemwide opportunity for input will help to inform the data gathering already underway through the avenues noted above and will also serve to further enhance the development of systemwide needs assessment.*

*All activities noted above have occurred after 2015 and continue currently.*

**Finding 2: Alameda County mental health data is not well developed, organized, shared, or distributed by ACBH.**

**• ACBH Response –**

*Partially Disagree. ACBH data is well-developed, organized, and managed. It serves as a basis for analysis for a variety of programs and system coordination, including but not limited, contributing to Alameda County's Social Health Information Exchange (SHIE).*

*The department was also evaluated in a recent state-generated assessment, wherein the Summary of Strengths section indicated ACBH produces a "1) a thoughtful and well-developed cultural competence plan and diverse staff; 2) (uses) data to adapt capacity and meet beneficiary crisis needs, resulting in decreased psychiatric inpatient admissions; 3) a (operates a) robust Quality Improvement (QI) work plan and data tracking approach; 4) (uses) Yellowfin dashboards (a complex data management system); and 5) (participates) in the (County's) community Health Information Exchange (HIE)."*

*ACBH Systems of Care have also designed 'push reports' to inform providers so they know when clients have been admitted to crisis, acute inpatient, and subacute settings. These reports are extrapolated from data and shared with providers to highlight performance metrics on a monthly and quarterly basis.*

*EQRO regularly provides documented feedback to ACBH that Alameda County's behavioral health department is one of the highest ranked counties (comparatively) in its ability and capacity to collect and organize data to inform decisions and help guide system planning and clinical work.*

*ACBH does recognize that improvements may be made to publish more outward-facing dashboards, share reports with the public, and display non-protected aggregate data on public websites and in newsletters. The strength of ACBH's reliance upon Yellowfin to develop, organize, and share data through the department's newly redesigned website*

has already been incorporated into a plan for development of greater public dashboard across each System of Care.

**Finding 3: ACBH service contracts are inflexible. ACBH's switch to fee-for-service contracts from performance-based contracts has likely resulted in reduced services available to Alameda County residents.**

- **ACBH Response –**

*Partially Disagree.* ACBH disagrees with elements of this finding. Currently, most contracts are reimbursed on a provisional rate and settled to cost. ACBH is piloting with Full-Service Partnership (FSP) provider contracts a change process from cost-based structures to a Fee-For-Service (FFS) utilization-based payment model. The new payment structure is designed to support quality strategies and provider cost efficiencies. Further, it will position ACBH to implement the California Department of Health Care Services' initiative under California Advancing and Innovating Medi-Cal (CalAIM) to eliminate contract caps, cost-based reimbursement, and the cost settlement process. ACBH plans to expand the payment transformation model in the future to align with CalAIM to increase access and improve quality, thereby reducing complexity for the Medi-Cal program in California including Specialty Behavioral Health services.

In addition, ACBH carefully reviews projected revenues and expenditures and convenes a Budget Workgroup to identify the best use of additional identified funds when available. In Fiscal Year (FY) 21-22, additional funds were used to provide Cost of Living Adjustments (COLA) and systems need expansions in areas where additional services were most needed. In FY 22-23, after much discussion and deliberation, additional funds were used to provide an additional allocation adjustment to help address a staffing crisis far above and beyond that seen in prior FYs which was observed throughout most of our CBO system and substantially impacted service delivery.

*Please Note:* The Grand Jury report does not specify which programs/contracts to which the findings and recommendations are attributed other than generally to all and does not specify resources.

**Finding 4: The mental health record systems of county mental health service providers cannot connect with each other.**

- **ACBH Response –**

*Agree.* Many CBO providers have acquired different electronic health record (EHR) systems. There is an effort at the state level to create a hub that would allow providers to connect with each other.



Also, ACBH is currently in the process of acquiring an EHR system to locally sponsor a mechanism by which all providers may access care, improve service coordination, and make referrals through an integrated health management system.

**Finding 5: Most Alameda County residents have limited knowledge of the ACCESS phone line and its role.**

- **ACBH Response –**

*Agree.* The department agrees that more education is needed across the public to increase awareness and the purpose of its ACCESS line. To that end, ACBH initiated, completed, and publicly posted its plans to improve “ACCESS” across the community – including the degree to which the services are clearly visible and easy to navigate. Strategies both involving understanding county-offered services, accessing care, and making referrals will be provided and circulated throughout the county. Given the establishment of the 988 Suicide and Crisis Lifeline at the national level, and coordination strategies at the state and county levels, ACBH is also synthesizing its efforts and informational instruction on accessing care to include these significant statewide changes to help the public access services or seek support during an emergency or crisis event.

**Finding 6: Although there is a phone line answered by a volunteer from a local mental health provider during hours when ACCESS is not staffed, emergency mental health services for low-income SMI individuals are not offered 24/7 and no crisis referral line/alternative to jail/5150 for immediate care for the SMI when ACCESS is closed.**

- **ACBH Response –**

*Disagree.* Emergency mental health services across the county are also available through the county’s Crisis Stabilization Units and Crisis Residential Facilities on a 24-hour basis. These services operate with the purpose of supporting individuals in crisis, and to help divert individuals from jail or psychiatric hospitalization. ACCESS is operated 24/7/365 in alignment with our contract and statutory requirements. ACCESS after-hours support is delivered through an organization (Crisis Support Services (CSS)) contracted by ACBH to perform this function. CSS utilizes an assortment of staff, including clinicians and volunteer Peer Support where appropriate or preferred. In the past several months, ACBH has already initiated and is continuing to work with the organization through a contractual augmentation which will allow for increased recruitment and retention of clinician staff to meet community need.

**Finding 7: Behavioral Health Court is not adequately supported and funded.**

- **ACBH Response –**

*Disagree. The department has assigned county employees to work within Alameda County's Behavioral Health Court (BHC). These staff monitor, oversee, and coordinate care through this program. Activities within the BHC exist as a collaboration between ACBH, the Courts, the Alameda County District Attorney, and the Alameda County Public Defender. The goal of BHC is to promote public safety and assist severely mentally ill offenders by diverting them away from the criminal justice system and into community treatment.*

*BHC is a voluntary program that serves to connect client with treatment to right matched care provided by contracted community providers in order improve the quality of life for clients, protect the safety of the community, and reduce recidivism. Based upon real-time and aggregate data available to the department, BHC has capacity to accept additional individuals who meet BHC eligibility criteria and who are accepted by the BHC partners. ACBH is committed to exploring opportunities to support justice involved clients and increase diversion efforts, as appropriate.*

**Recommendations**

**Recommendation 1: Alameda County Behavioral Health should develop a community-wide needs/gaps assessment, beyond the scope of what the Mental Health Services Act requires, to guide funding and ensure equity in service delivery. This can help Alameda County Behavioral Health develop a strategic plan to ensure that Alameda County's current approach to mental health services and funding is fully in sync with "Care First, Jail Last" and Alameda County's current needs.**

- **ACBH Response –**

*Status: Implemented & Ongoing. ACBH is partnering with California Institute for Behavioral Health Solutions (CIBHS) and the Equity and Wellness Institute (EqWI) to complete its Strategic Planning Initiative. Diverse stakeholder feedback, inclusive of County, CBO, family members, and consumers, is being obtained through listening sessions and via survey. Of note, this survey was made available in Alameda County's threshold languages. Survey questions included asking what services/programs are currently offered by ACBH that you consider to be extremely important; services/programs not currently offered by ACBH that should be; top three target populations/communities that ACBH should focus on; top five priority areas of focus for ACBH (i.e., improving services to children and youth; improving coordination between and across provider networks).*

ACBH Workforce Development, Education and Training unit is partnering with the California Department of Health Care Access and Information to obtain county and contracted provider feedback to better understand the Public Mental Health System workforce; aimed at expanding and retaining a culturally diverse workforce. Results from the Health Care Access & Information Survey were submitted as required to meet the August 22, 2022 deadline.

ACBH will continue to complete and engage in all External Quality Review on a twice annual basis to consistently assess system needs (and gaps) identified through data and reported through this process. Given that the departmental reviews include both Mental Health and Substance Use services; ACBH will continue to comprehensively evaluate performance and its ability to provide and meet timely access standards developed by the state (Network Adequacy).

In addition to the above, ACBH formally endorsed and coordinated the submission of several provider grant applications to the California Department of Health Care Services (DHCS) to develop "launch ready" capital infrastructure projects. This program, called the Behavioral Health Continuum Infrastructure Program (BHCIP), was designed to increase the provision of care in the least restrictive settings by creating a wide range of options including outpatient alternatives, urgent care, peer respite, wellness centers, and social rehabilitation models. In preparation for the submission of these applications, ACBH considered current data related to utilization, client geographic locations, and service need to determine additional system-wide supports needed on behalf of its consumer populations.

DHCS ultimately awarded Alameda County Behavioral Health sponsored programs approximately \$14 Million dollars to organizations to fund the development of a Forensic Crisis Residential Treatment program, Crisis Stabilization Units and Crisis Residential Treatment Center, and a Transitional Age Youth Residential and Outpatient Program. ACBH plans to continue to fill system needs and potential service gaps through ongoing planning and partnership with local agencies to support the community through future rounds of BHCIP funds as they become available. ACBH's proactive engagement of BHCIP activities considering the 30-year funding requirement stipulated by DHCS for ongoing services, is further evidence of the County's clear commitment to proactive data-informed community needs assessment, planning, and decision-making. In total, Alameda County will benefit from approximately \$18.4 Million Dollars in capital grants (including an additional project submitted by a single organization).

**Timeline:** The Department expects to receive synthesized recommendations from the August Survey by December 2022. The ACBH Strategic Plan and complete set of system wide recommendations are expected to be received by the department by December of 2023. Based upon the results of the Strategic Plan, and results of the Behavioral Health Continuum Infrastructure Program (BHCIP) grant awards launched by the California Department of Health Care Services in the coming years, ACBH further anticipates conducting an updated and formalized system evaluation and assessment by 2026.

**Recommendation 2: Alameda County Behavioral Health should invest in and improve its data development, organization, sharing, and distribution capabilities. Accurate and complete data-driven analysis and evaluation should direct Alameda County mental health service and funding choices.**

- **ACBH Response –**

*Status: Partially Implemented.* ACBH has invested significant financial resources, infrastructure, planning, and integration of its Data unit. Data-driven analyses routinely inform contracting and program development. The department will continue to invest in and improve its data development, sharing and distribution capabilities. Outward-facing dashboards to showcase provider performance, and other qualitative factors, are currently in development and are expected to be completed and 'published' on the ACBH website by the end of the current fiscal year. **Timeline:** June 2023

**Recommendation 3: Alameda County Behavioral Health should lift contract caps for providers who are overserving their contracts, or at least provide clear protocols for how and when to lift those caps during contract negotiations with service providers.**

- **ACBH Response –**

*Status: Implemented.* ACBH carefully reviews projected revenues and expenditures and convenes a Budget Workgroup to identify the best use of additional identified funds when available. In Fiscal Year (FY) 21-22, additional funds were used to provide Cost of Living Adjustment (COLA) and systems need expansions in areas where additional services were most needed. In FY 22-23, after much discussion and deliberation, additional funds were used to provide an additional allocation adjustment to help address a staffing crisis far above and beyond that seen in prior FYs which was observed throughout most of our CBO system and substantially impacted service delivery.

*Besides a standard approach to contract renewal and development, the department also assigns a contract monitor to every organization and/or by program to serve as a liaison to the organization regarding contract issues. Contractors routinely access their Contract Monitor or Operational Lead to discuss contract amount issues on a case-by-case basis. As a result, mid-year adjustments are approved by the department and forwarded to the Board of Supervisors for approval as required.*

*Please Note: The Grand Jury report does not specify to which program(s)/contract(s) the recommendation is attributed other than generally. Resources or funding sources have not been identified and does not therefore allow for further response beyond what has been noted above.*

**Recommendation 4: Alameda County Behavioral Health must develop technology that allows uniform interoperability between multiple provider agencies for sharing of medical records.**

- **ACBH Response –**

*Status: Implemented.* The state's Behavioral Health Quality Improvement Program (BHQIP) requires County Behavioral Health Plans to complete Data Exchange milestones between 9/30/22 - 9/30/23. Data Exchange milestones include data sharing agreements between Behavioral Health Plans and Managed Care Plans, federal Interoperability requirements inclusive of data format and security requirements, and required utilization, cost, and clinical data.

ACBH has developed an Implementation Plan in response to this requirement which would address this recommendation.

**Recommendation 5: Alameda County Behavioral Health should add outreach in multiple ways, languages, and venues, including directing materials to law enforcement, health care, social services, and to the general public to instruct them appropriately about ACCESS as both a resource line and a referral line.**

- **ACBH Response –**

*Status: Partially Implemented.* An assessment, work group, and report were completed regarding ACCESS operations during FY 21-22. The report was posted for the public to review and comment on the ACBH website. A series of recommendations were made and prioritized for implementation.

The ACCESS unit is currently undergoing changes to assist with ease of navigation and meet community needs. The recruitment process for new Division Director leadership is currently being completed and will oversee efforts relative to public education, system change, and community-driven access improvement. Although changes relative to county staff require coordination with county Labor and Human Resources, non-personnel structural changes and information to the public is underway and will be continuous. Website modifications, messaging, and partner education is targeted for completion by June 30, 2023. **Timeline:** to complete system-wide change efforts, beyond integration of mental health, substance use, and 988 system coordination; is anticipated to require 24 months to complete (August 2024).



**Recommendation 6: The ACCESS number should be more widely distributed by Alameda County Behavioral Health to the professional and consumer communities. If the ACCESS line is an information and referral line, there should be corresponding easily accessible resource information about mental health programs on ACBH's website and outside of the website, available to the public.**

- **ACBH Response –**

*Status: Partially Implemented. Numerous brochures publicly posted information in community clinics currently exist and are in circulation currently. However, ACBH is preparing information that will be used to inform the release of a public service announcement and/or video, billboards, and other communications, that may be distributed throughout the community in multiple languages. Website improvements are currently underway and will be updated through the current Calendar year (by December 2022). Timeline: for more systematic efforts and public information is planned through the coordination with Health Care Services Agency and new ACCESS Division Leadership and anticipated to be completed by December 2023.*

**Recommendation 7: Alameda County Behavioral Health should provide a mental health support/crisis line that is staffed 24-7 as a referral alternative to jail or psychiatric holds.**

- **ACBH Response –**

*Status: Partially Implemented. ACBH has already coordinated with its contracted provider (CSS) to add professional licensed staff to their cohort of after-hours providers through a contractual augmentation with additional funding. The ACBH Office of the Medical Director and Crisis Services Division are working with CSS to enhance service delivery to include direct clinical assessment and intervention. Timeline: to complete this project (initiated in Fiscal Year 2021-22) is expected require multi-year analysis and program evaluation, beyond the initial implementation. This data review and analysis of the new model agreed to by the County and CSS will include strategies designed to effectively coordinate state and local changes to the crisis system. As such, completion and evaluation are likely to be completed by FY end 2024.*

**Recommendation 8: Alameda County Behavioral Health must develop enough program slots to meet current needs.**

- **ACBH Response –**

*Status: Implemented. Federal network adequacy standards are currently being met with regards to service slot and program availability. Developing additional program slots are dependent upon available funding based upon consistent data evaluation and monitoring of client access to care, timeliness standards, and service delivery. Ongoing efforts,*

beyond those relative to current or planned expansion will continue through the completion of BHCIP projects (described above) and the department's implementation of the forensic planning efforts.

ACCESS capacity and referrals are tracked, including utilization of outpatient services for all systems of care. This analysis currently enables ACBH to view real-time data on service lines that will require expansion (due to capacity).

Yearly changes and assessment are incorporated into the Network Adequacy certification process. Total Alameda County Medi-Cal beneficiaries serve as the denominator. The numerator is actual beneficiaries served (i.e., actual utilization) which is measured against the anticipated/expected utilization. Yearly capacity determinations are based on a plan of being able to meet/exceed the anticipated/expected utilization. Capacity determinations are further broken down by age groups (i.e., youth, adults) and service types /modalities. These methodologies will continue to be implemented to assist the department with meeting local need and access.

**Recommendation 9: Alameda County Behavioral Health must improve/expand upon its coordination between service providers and ACCESS staff regarding available slots for service by developing appropriate technology to assess available program slots in real time.**

- **ACBH Response –**

*Status: Partially Implemented.* The department has developed a new ACCESS capacity and referral report that provides real time information on outpatient provider capacity that involves all systems of care. *Timeline:* This database and coordinated integration of Yellowfin information will be in full use in its first phase and implementation by the ACCESS division by December 2022. Substance Use Disorder services, referrals, and capacity is planned for the next phase anticipated by 2023.

**Recommendation 10: Alameda County Behavioral Health must provide more transparency in its reporting on Behavioral Health Court and make results of Behavioral Health Court available, including graduation rates, recidivism, and reasons for lack of completion.**

- **ACBH Response –**

*Status: Partially Implemented.* ACBH tracks successful client completion of Behavioral Health Court. *Timeline:* this data will be shared as part of ACBH's forensic dashboard and will be added to ACBH's website by March 2023.

**Recommendation 11: Alameda County Behavioral Health, in collaboration with the courts, should increase the capacity of Behavioral Health Court, based on findings above, to support the “Care First, Jails Last” Board of Supervisors resolution.**

- **ACBH Response –**

*Status: Implemented.* ACBH expanded BHC by four times its previous capacity in FY 2019-2021. BHC needs are regularly assessed to address the Care First, Jails last Initiative, which ACBH supports.

**Recommendation 12: Alameda County Behavioral Health, in collaboration with the courts, needs to provide data that ensures that Behavioral Health Court is racially and geographically equitable.**

- **ACBH Response –**

*Status: Implemented.* ACBH routinely tracks and provide client-level demographic data (race, gender, area of residence) on who is served by the Behavioral Health Court. This data is used to evaluate service delivery, outcomes, and inform the county on trends relative to the Behavioral Health Court. ACBH similarly supports health equity and unbiased treatment across settings, including within the BHC. However, it is out of the scope of ACBH to determine who is involved with the Courts/justice system and therefore the department has no control on who may be referred to Behavioral Health Court by the legal system.

The department will continue to monitor demographic information and data and retain/transmit this information consistent with ethical standards and legal requirements. ACBH will also continue with its current planning efforts to include publicly viewable posting of data and outcomes to ensure transparency to the community, and accountability across its provider networks.

Alameda County Behavioral Health Care Services is committed to the advancement of health equity, inclusion, and diversity as evidenced by many projects launched in the past fiscal year and in the development of the department’s Health Equity Division. ACBH’s newly appointed Health Equity Officer oversees this new division and is a member of the Executive Team. Additionally, the ACBH Health Equity Officer now works collaboratively with the newly established Forensic, Diversion, and Re-Entry System of Care leadership to ensure health equity-driven outcomes across settings, including through programs such as the Behavioral Health Court.





BRENDON D. WOODS

*Public Defender*

YOUSEEF J. ELIAS

*Chief Assistant Public Defender*

**MEMORANDUM**

DATE: September 8, 2022  
TO: Laura Lloyd, CAO Analyst  
FROM: Brendon D. Woods, Public Defender  
RE: Grand Jury Response

**Finding 15:**

*The Public Defender's probate conservatorship unit is severely understaffed and overworked, meaning that proposed conservatees with means receive a far higher level of service than the indigent.*

The Public Defender disagrees wholly with the finding.

The Alameda County Public Defender has always been tasked with representing a large number of clients. There is a high volume of cases in all assignments and additional resources are needed across the board in every unit. Probate Conservatorships are no exception. We are fortunate to be able to hire the highest quality attorneys from an extremely competitive applicant pool. Attorneys assigned to handle Probate Conservatorships, like all Public Defender attorneys, have access to the full resources of the office, including the Law & Motions department, Investigations unit, administrative services, and Information/Technology services. While the Probate Conservatorship assignment has historically been a one-person responsibility, performed by a senior attorney, in June 2022 the Public Defender added a second attorney. Both attorneys are among the most experienced in the office. This increase will allow for even more attention to our clients. It will also allow us to accelerate a long-overdue audit that the Public Defender anticipates will confirm that a significant number of cases are categorized as "open" when in fact our representation may be deemed "complete."

It is unclear what is meant by the phrase "higher level of service" in Finding 15. The Public Defender categorically rejects the notion that there is *any* substantive difference in the quality and nature of representation received by those conservatees with substantial estates and those without.

**Finding 16:**

*The failure of the Public Defender to gather data on conservatorship case outcomes, implement formal training procedures, and establish a formal grievance process for clients, in addition to its reliance on paper files, hampers its ability to identify trends, stay up to date on best practices, and learn from past experience.*

The Public Defender disagrees partially with both the premises and conclusions of this finding.

*Data Gathering:* The Public Defender is a strong proponent of data collection and analysis both within its practice and across the broader criminal justice community. Data gathering and analysis can, of course, be resource intensive. The Public Defender welcomes the expansion of its data gathering capacity as the Board of Supervisors deems appropriate and chooses to allocate funds to increase our capacity to collect data. Probate Conservatorship attorneys have met to discuss what types of data collection might be productive and whether that process can be incorporated into work already being done to update the Public Defender's records management software (JCATS).

*Training Procedures:* Please refer to the Public Defender's response to Recommendation 25.

*Formal Grievance Process:* While there is no formal written grievance process, clients always have the opportunity to speak to a supervisor/manager if they are not happy with the representation they or a family member are receiving. Experience throughout our office indicates that they do not hesitate to do so when concerns arise. Complaints are received and reviewed seriously, always with an eye toward ensuring that we provide the best possible representation to our clients.

**Finding 18:**

*Involuntary conservatorship proceedings can quickly drain proposed conservatees' estates, which would not occur under a recorder's fee- or grant-funded model.*

To the extent Finding 18 is a general observation, the Public Defender agrees that any form of estate-funded legal proceedings will, by definition, reduce the size of an estate more than if those proceedings were free, or funded in some other way.

To the extent Finding 18 specifically relates to the Public Defender, the Public Defender wholly disagrees because Public Defender legal fees do not play a significant role in depleting

conservatees' estates. Indeed, the Public Defender's involvement can help prevent the depletion of conservatees' estates.

First, the majority of Public Defender probate conservatorship cases are limited conservatorships (approximately 80%). The Public Defender does not receive any fees in limited conservatorship cases.

Second, the Public Defender only occasionally receives fees related to general conservatorships (the other 20% of our practice). This is for multiple reasons. To begin with, conservatees with an estate large enough to bill are represented by Legal Assistance for Seniors, not the Public Defender, pursuant to Local Rule 7.820. Furthermore, the Public Defender doesn't petition for fees in any case to which we are assigned. In the narrow category of cases where there is an estate, *and* the Public Defender has been appointed, *and* the conservator is the Alameda County Public Guardian, then the Public Guardian's attorney (County Counsel) petitions for fees according to a fee schedule established in Superior Court Local Rules Appendix C. County Counsel petitions for fees for all County entities (Public Guardian, County Counsel, and Public Defender) and then the probate judge rules on the petition. In fiscal year 2021-2022, for example, the Public Defender received fees in just 51 probate conservatorships. In 21 of those cases the Public Defender completed its services, meaning that our fees are not on-going.

It should be noted that in non-Public Guardian cases, the Public Defender carefully reviews any fee petitions submitted by other professionals (attorneys and conservators, for example) and objects to and questions the fee petition when appropriate.

**Recommendation 24:**

*Unless and until there has been a determination as to a new funding model, the Alameda County Board of Supervisors must approve funding for one experienced full-time attorney to be assigned exclusively to the Alameda County Public Defender's probate conservatorship unit.*

The recommendation has been implemented.

The Alameda County Public Defender Probate Unit now has two full-time senior attorneys assigned, each of whom has more than 20 years of litigation experience. The second attorney started on June 6, 2022. Historically, the unit had been staffed by a single experienced senior attorney with previous practice in juvenile court, mental health court, and collaborative courts. Alameda County Public Defender Brendon Woods made the decision to staff a second lawyer to

the Probate department well in advance of this report. No additional funding has been provided by the Alameda County Board of Supervisors for the reassigned attorney.

**Recommendation 25:**

*The Alameda County Board of Supervisors must direct the Alameda County Public Defender to subscribe to an attorney training service upon hire and for continuing education in the area of probate conservatorship.*

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

Alameda County Public Defender written policy requires attorneys to “remain current in the law and ...work proactively and continuously to broaden and strengthen their skills in whatever assignment they hold in the office.” This requirement is above and beyond the requirements for Continuing Legal Education (CLE) imposed by the State Bar. To help meet these expectations, the office’s legal training department produces CLE-compliant training sessions throughout the year, which are attended by Public Defender attorneys, members of the Alameda County bar at large, and even members of public defender offices in other counties. Furthermore, all Alameda County Public Defenders receive paid memberships to the California Public Defender Association (CPDA), which offers trainings in all areas of public defender practice (including probate conservatorships), maintains an archive of past trainings, and also hosts a list-serve for probate conservatorship practitioners.

Public Defender lawyers thus receive far more training, in a far greater diversity of topics and skills, than is required or is typical of the average lawyer.

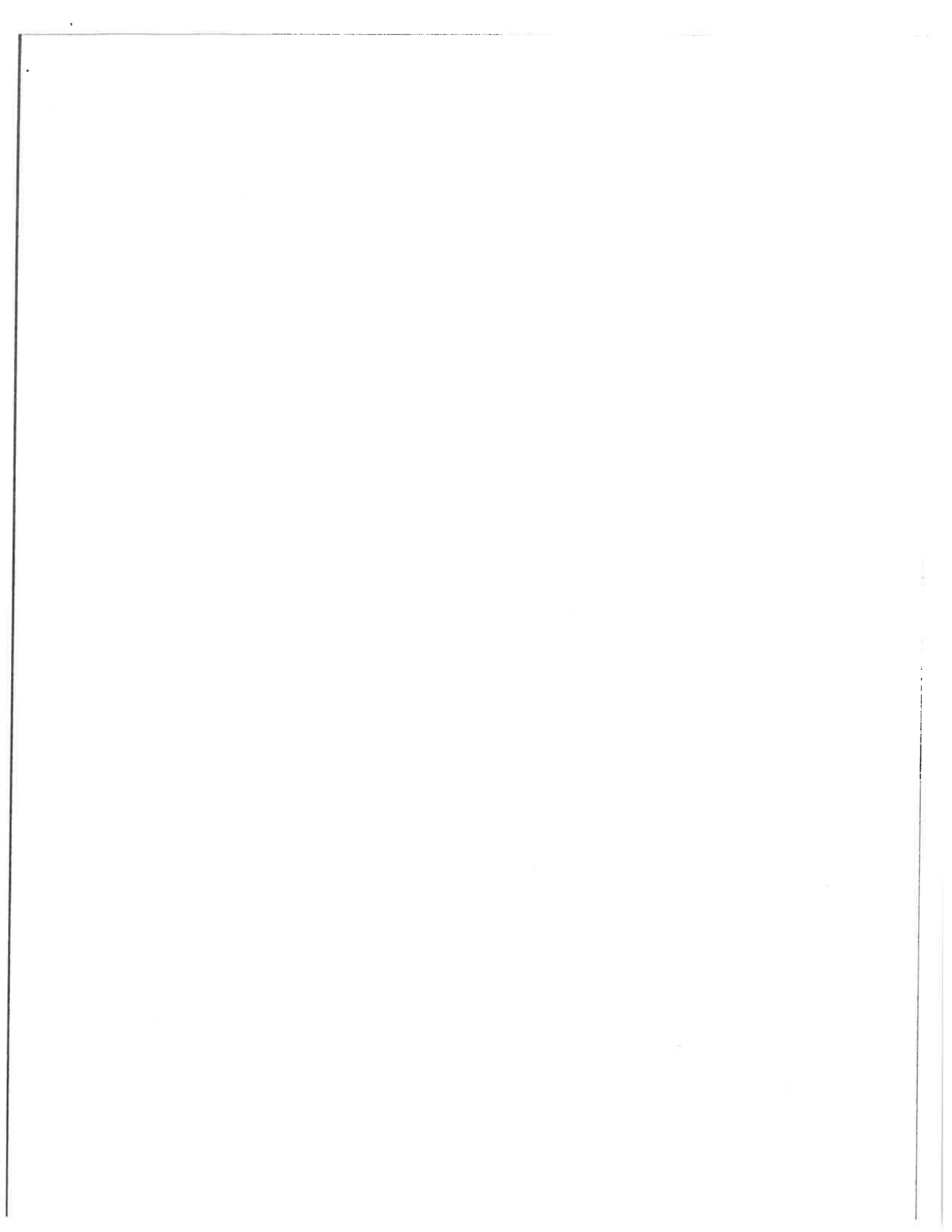
Additionally, the two attorneys assigned to Probate Conservatorships are members of the East Bay Trusts and Estates Lawyers (EBTEL) association. This professional organization offers specialized trainings on topics related to probate conservatorships and elder law, including an annual “recent developments” program discussing the latest changes in the law, and an annual one-day “boot camp” seminar covering subjects that include conservatorships. EBTEL also has an attorney list-serve where members can email questions about issues they encounter in conservatorship cases. Each attorney has also availed himself of CPDA training materials (see above) specifically related to probate conservatorships.

**Recommendation 26:**

*The Alameda County Board of Supervisors must direct the Alameda County Public Defender to establish annual performance evaluation procedures for conservatorship attorneys.*

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

As explained previously, attorneys assigned to Probate Conservatorship have always been experienced senior attorneys. The two attorneys currently assigned to the unit are among the most experienced in the office. Each has himself previously supervised Public Defender branch offices, including reviewing and evaluating younger attorneys. Their unit is supervised by a third senior attorney, who also has probate conservatorship experience. In short, performance issues—should any arise—are easily and swiftly addressed directly within this small and experienced group. In these circumstances formalized annual evaluations are superfluous and cumbersome.



**Alameda County General Services Agency**

**Response to the 2021-2022 Alameda County Grand Jury Final Report**

**Findings 19-21; Recommendations 28-32**

**Santa Rita Jail Facility Safety**

**Finding 19**

High-risk safety code violations exist within the Santa Rita Jail. These include:

- a. High-voltage electrical wiring not installed in accordance with code.

The General Services Agency (GSA) disagrees partially as the wiring is installed in accordance with code and cords are designed and supplied by the manufacturer; however, to ensure greater safety, GSA hardwired the emergency lighting wall pack and placed it in conduit. Additionally, GSA replaced the cables to the freezer door heating element and placed anti fray protection on these cables.

- b. Obstruction of access to emergency safety equipment.

GSA agrees with the finding. GSA removed pallets that were blocking eye wash stations, installed bollards, and painted the floors as a preventative measure.

- c. Emergency safety equipment for which testing, and maintenance are out of date.

GSA agrees with this finding, and testing and maintenance are up to date.

- d. Unlabeled emergency-stop controls on industrial equipment.

GSA agrees with this finding, and has now ensured that all emergency stop controls are labeled on industrial equipment.

- e. Inconsistent signage on hazardous waste disposal containers.

GSA agrees with this finding and the issue has been corrected.

- f. Instances of missing temperature-monitoring data for food storage refrigerators.

GSA defers this response to the Alameda County Sheriff's Office (ACSO) as food storage refrigerators are managed by Aramark a contractor under ACSO's oversight.

**Finding 20**

The absence of periodic, proactive reviews of the Santa Rita Jail facility's condition increases the risk that critical issues will be undetected and unaddressed until they result in an injury or operational disruption.

GSA disagrees wholly or partially with this finding. GSA performs preventative maintenance services to equipment in intervals based on manufacturers recommendations. These

intervals are scheduled in Corrigo, a facility maintenance management platform that generates work orders. In addition, Sheriff deputies inspect the facilities on routine schedules and report corrective maintenance to the GSA Building Maintenance Department through the work order system. GSA performed a five-year facility needs assessment in 2019 to identify major maintenance and equipment lifecycle timelines. The facility needs are reported in the County's five-year capital plan.

**Finding 21**

Inspections of the Santa Rita Jail facility conducted by the Board of State and Community Corrections do not include participation of Alameda County General Services Agency staff responsible for the condition and maintenance of the jail facility, resulting in a missed opportunity for valuable exchange between inspectors and county staff and potentially unnecessary delays in addressing issues identified during inspections.

GSA disagrees partially with this finding. The GSA Building Maintenance Department Facility Manager or designee is a participant in the BSCC inspections. There may have been rare instances where this did not occur due to communications related to staffing changes. ACSO and GSA have discussed this concern to ensure GSA BMD's participation.

**Recommendation 28:**

The Alameda County Sheriff's Office must remediate the following issues and verify full compliance with applicable codes:

- a. Electrical connection to ovens and tablet-charging stations within housing units.

ACSO and GSA BMD have reviewed the recommendation and confirmed that this will require work in all housing units. GSA BMD is developing a plan that will need to be reviewed by ACSO and coordinated with several other priority projects in the facility.

- b. Provide permanent floor marking to demarcate area that must be kept clear around eyewash station in kitchen.

This recommendation was completed.

- c. Bring current the testing and maintenance for eyewash station in kitchen and incorporate the necessary periodic reviews into preventive maintenance scheduling system.

This recommendation was completed.

- d. Ensure presence and readability of all emergency-stop controls in kitchen. GSA completed this recommendation.

This recommendation was completed.

- e. Attach signage for PPE/hazardous waste disposal to disposal containers.

This recommendation was completed.



**Recommendation 29:**

The Alameda County Sheriff's Office must conduct a facility-wide audit for health and safety code issues to be led by a subject matter expert and review results with the jail commander and the Alameda County General Services Agency (GSA) manager on completion.

The recommendation is not warranted given that there are several facility-wide inspections in place. In addition to facility inspections managed by ACSO, GSA oversees an annual facility-wide safety assessment performed by Du-All Safety as the subject matter expert, and fire life safety systems are inspected quarterly by Battalion One a qualified inspection company.

**Recommendation 30:**

The Alameda County Sheriff's Office must incorporate into the Santa Rita Jail facility operation procedures a requirement for a semiannual facility-wide safety inspection to include the jail commander, the GSA facility manager, and a facility health and safety code expert. Document these results in a written report and add any issues identified to the facility's maintenance issue tracking system.

The recommendation is being reviewed considering the existing inspections that already occur. GSA BMD performs annual safety inspections as noted in response to recommendation 29. The results are shared with ACSO command staff. Mitigations or corrective measures are implemented and tracked in Corrigo the maintenance management platform.

**Recommendation 31:**

**The Alameda County Sheriff's Office must inform GSA of all Santa Rita Jail inspections by the Board of State and Community Corrections or any other third-party entities.**

This process is already in place. The GSA BMD Facility Manager is notified of all inspections by the Board of State and Community Corrections or other third-party entities.

**Recommendation 32:**

**The Alameda County General Services Agency must require a GSA Facility Manager be present during all Board of State and Community Corrections and other Santa Rita Jail facility inspections.**

The process is already in place. GSA requires that the BMD SRJ Facility Manager attends facility inspections or designates the Facility Supervisor in his absence.