

SANTA BARBARA COUNTY GRAND JURY

A VICIOUS CYCLE

INCARCERATION OF THE SEVERELY MENTALLY ILL

SUMMARY

Pursuant to California Penal Code Section 919(b) the Grand Jury (Jury) is vested with the authority to examine the operations of jails within Santa Barbara County. Therefore, the Jury has reviewed the deaths in custody occurring at the new Santa Maria North County Jail (North Jail), which began operations in January 2022.

The Jury examined two deaths in custody at the North Jail. The inmates, KC and EEA, were diagnosed with severe mental illness and drug addiction. Over more than a decade, KC and EEA were arrested multiple times, convicted, and sentenced to jail and/or probation. From the first to the last of their dozens of arrests, jail custody officers identified their mental health challenges as severely mentally ill (SMI). Both were referred to jail mental health professionals. At different times, each was found to be incompetent to stand trial (IST), that is, could not understand the charges or cooperate effectively with their lawyers. After their last arrests, KC and EEA were housed in the newly opened North Jail, where each died from a fentanyl overdose.¹

¹ Discussion of the serious contraband issue is beyond the scope of this report.

METHODOLOGY

Information about these deaths in custody was obtained from the Santa Barbara County Sheriff's Office (Sheriff), which included written reports and interviews with Senior Deputies, Custody Deputies, and other sworn staff of the Department. Additionally, the Jury reviewed Coroner and Deputy Coroner investigators' reports and interviewed Santa Barbara County Behavioral Wellness Department staff. Interviews of representatives from the Public Defender's Office and the Probation Department provided background information on available resources and cooperation among providers for mental health services. In addition, the Jury heard from representatives active in community groups focused on mental health in Santa Barbara County (County).

The Jury reviewed intake and mental health chart records from Wellpath, the County's current contracted medical and mental healthcare provider for the (Main) South County Jail and the North County Jail. Finally, the Jury studied other documents, records, and policy and procedure manuals for the Sheriff and Wellpath.

OBSERVATIONS

KC's Death

On March 5, 2022, KC, a 34-year-old female, was arrested in Isla Vista and charged with first-degree burglary and receiving stolen property. On September 9, 2022, at 10:20 p.m., KC was unresponsive in her cell. The Santa Barbara Sheriff-Coroner's Autopsy and Toxicity report concluded that KC died from an overdose of fentanyl.

KC's History

Records provided to the Jury revealed that KC's first known incarceration was in December 2010.² KC claimed to have a mental health condition and was taking medications for this condition. KC had previously attempted suicide. The custody officer referred her to a mental health professional. Over the next decade, KC was jailed, placed on probation, served time, and rearrested more than a dozen times. Each time she was in custody, she was referred for a mental health evaluation. This did not prevent her from being rearrested repeatedly.

In February 2018, KC was classified as severely mentally ill. At that time, she admitted to being under the influence of multiple illegal drugs and alcohol. In addition, KC was diagnosed with severe mental illnesses. KC gave irrational responses or had conversations with people who were not present.

On March 5, 2022, KC was rearrested for first-degree burglary and possession of stolen property.³ Custody officers described her as suffering from severe mental health issues. She spoke erratically, could not stand still, and appeared to talk to someone not there. On March 8, 2022, KC was arraigned, and the court ordered a competency evaluation and assigned two mental health professionals to determine if KC was competent to stand trial.⁴ At the end of March, she was removed from quarantine and put into restrictive housing because of her inability to program with other inmates. On May 3, 2022, and

² There are references in some documents suggesting that she had been incarcerated before that date.

³ In California, burglary can be charged as a felony (residential entry) or a felony or misdemeanor (commercial entry). (Penal Code, sec. 459, 461.) Receiving stolen property can be charged as a felony or misdemeanor. (Penal Code, sec. 496(a).)

⁴ For purposes of present competency to stand trial, a defendant is mentally incompetent "if, as a result of a mental disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner." (Penal Code sec. 1367(a).)

based on the doctors' reports, the court found KC incompetent to stand trial (IST). She was committed to treatment at the Department of State Hospitals (DSH) within 28 days and ordered to receive medications involuntarily.

DSH had no bed space for KC. The Jury learned the average wait time for acceptance in a DSH facility is approximately eight months. The court was informed of the delay, and KC's commitment order was reissued on June 3 and again on September 2.

After the court commitment, KC languished in jail, according to the Sheriff's Office . When asked what programs there were for KC, the Jury was told that coloring books were used to occupy her mind.⁵ She had no access to any other jail programs, as she was primarily kept in isolation and deprived of privileges due to her violation of the jail rules.

In June, KC was disciplined for lack of respect, discourtesy, rudeness, and causing disturbances. After an administrative disciplinary trial, custody officers suspended her commissary and visitation privileges through August 16. Subsequently, new administrative violations were charged and sustained. As a result, custodial officers again suspended her commissary and visitation privileges from August 16 to September 26.

On September 9, at 10:17 p.m., KC was found unresponsive. During the evening medication distribution, the on-duty Wellpath Registered Nurse (RN) noted that she was not moving and would not come to the cell door to get her medications. Upon entering the cell, the RN found KC unresponsive, with no breathing or pulse. A custody officer

⁵ The Jury was told that the North Jail had no Jail Based Competency Treatment (JBCT) program, which KC could only enter with DSH approval.

called a “man down” code over the radio, and CPR was started. The RN administered four doses of Narcan. First responders declared KC deceased at 10:48 p.m.

The introduction of contraband into correctional and detention facilities is a major problem nationwide and in Santa Barbara County.⁶ The Jury asked how KC obtained the drug that killed her. The Jury learned that deadly drugs laced with small amounts of fentanyl are easy to hide in body orifices, and extremely difficult to detect.

EEA’s Death

On May 5, 2022, EEA was arrested for violating a domestic violence court order, possession of drugs, and resisting arrest. Based on behavioral issues, EEA was classified in and out of restrictive housing. In July, an officer found him with a makeshift tourniquet, which he explained was to stretch his back out. EEA was placed in an observation cell. A month later, EEA was placed in a safety cell for suicidal ideation. Soon after that, EEA was rehoused with other inmates, but a few days later, he got into a fight and was placed back into restrictive housing. Wellpath mental health professionals saw him frequently and noted suicidal ideation episodes, resulting in safety cell placement.⁷ EEA requested to be put back into the general population, which was granted in mid-September. On October 10, 2022, EEA was found dead in his cell from a fentanyl overdose.

⁶ In Santa Barbara County alone there have been 6 fentanyl overdose deaths of inmates in custody over the last two years. Two of them occurred during the week of May 23, 2023.

⁷ Policies and Procedures – Santa Barbara County Sheriff’s Office (sbsheriff.org). <https://www.sbsheriff.org/about-us/policies-and-procedures/> “Custody” and “Custody Operations Policies & Procedures,” Policy 304. Last viewed June 14, 2023.

EEA's History

Like KC, EEA was in and out of jail starting in 2007. He was arrested, sentenced, on probation, and rearrested at least six more times between 2007 and 2020. The Jury learned about EEA's multiple suicide attempts and several other incidents involving suicidal ideation. On numerous occasions, EEA attacked custodial officers and other inmates.

On October 6, 2020, the court declared EEA incompetent to stand trial (IST). After doctors determined him to be IST, the court adopted the doctors' recommendations, suspended the criminal cases, and ordered EEA committed to the Department of State Hospitals (DSH). Starting in March 2021, EEA was placed into a local Jail Based Competency Treatment program (JBCT). JBCT's goal is to present sufficient materials to inmates so they can understand enough information to work with their counsel, understand the court process, and participate in their trial. JBCT is not a mental health evaluation or treatment program.

In June 2021, EEA graduated from the JBCT program, was discharged from custody, and placed on supervised probation. EEA was rearrested on March 28, 2022, for child cruelty and a probation violation. On April 3, EEA was released. He was rearrested on April 7 and released on April 12 for time served.

Statewide, the number of cases like KC's and EEA's has grown dramatically

KC and EEA present a bleak picture of individuals suffering from severe mental health issues who cycle in and out of the criminal justice system. The Jury asked the Sheriff for the percentage of the jail population suffering from mental illness and was told that such

statistics do not exist.⁸ One study estimates that between 2009-2019, California jail inmates with mental health diagnoses grew by 42%.⁹ The report points out that inmates like KC and EEA are incarcerated longer, more likely to be disciplined, more often placed into isolated housing, and results in greater expense than if local treatment were provided.¹⁰

IST and the mental illness-criminal justice cycle

For over a decade, KC and EEA, both diagnosed as severely mentally ill, were trapped in a vicious cycle of arrest, release, re-arrest, rerelease, etc.

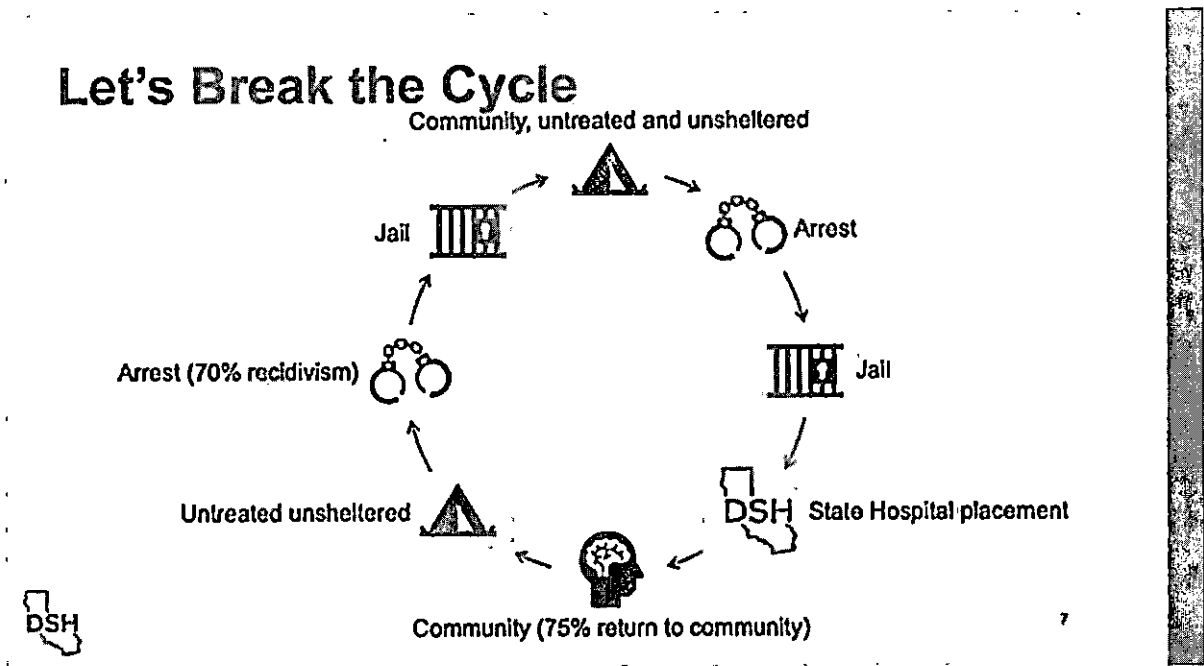


Illustration.¹¹

⁸ The Jury was informed that the Sheriff hired a statistician in July 2022

⁹ The Prevalence of Mental Illness in California Jails is Rising: An Analysis of Mental Health Cases & Psychotropic Medication Prescriptions, 2009-2019 (February 2020).

Source: https://calhps.com/wp-content/uploads/2023/03/Jail_MentalHealth_JPSReport_02-03-2020.pdf Last viewed May 23, 2023.

¹⁰ *Ibid.* p. 3.

¹¹ Department of State Hospitals Incompetent to Stand Trial Solutions Program Update, August 16, 2022, p.7.

They are not alone. Mentally ill commitments to state hospitals are growing, while wait times in local jails for DSH bed space are lengthening. Approximately 71% of IST's are returned to custody within three years of being declared competent to stand trial and able to cooperate with counsel.¹²

In 2021, California created an IST statewide workgroup (IST Workgroup) and allocated for FY 2022-23 over \$500 million¹³ to support the implementation of treatment strategies and solutions. The IST Workgroup proposed solutions for local community treatment options instead of DSH placements. Led by a psychologist, the Care Coordination Program creates a thorough record review in coordination with local jail authorities and then screens candidates for DSH-funded outpatient programs. The Care Coordination Program, including diversion from the justice system, stresses early access to treatment, including mental health evaluation, psychiatric stabilization, competency restoration services, and increased clinical engagement.¹⁴

Source:[https://www.dsh.ca.gov/About Us/docs/IST SolutionsBudgetOverview 08-01-22.pdf](https://www.dsh.ca.gov/About_Us/docs/IST_SolutionsBudgetOverview_08-01-22.pdf) Last viewed June 17, 2023.

¹² Ibid.

¹³ The allocation for 2025-2026 is \$638 million.

¹⁴ See fn. 12, p.14.

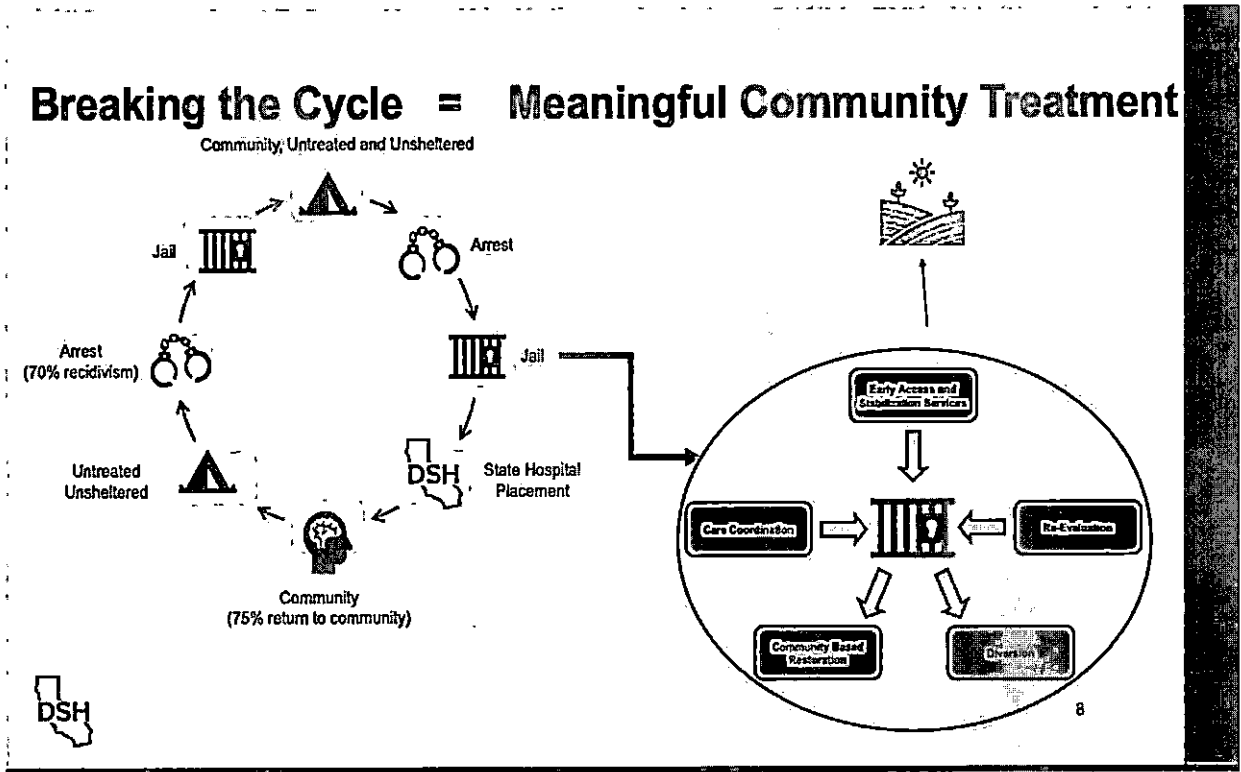


Illustration.¹⁵

KC and EEA might have been placed into local treatment programs rather than jail if meaningful community treatment options were adequately resourced, implemented, and organized.

The 2023-2024 CARE Court Act

In 2022, California passed the Community Assistance, Recovery, and Empowerment Act (CARE).¹⁶ Rather than the cycle of arrest-jail-court-arrest, CARE¹⁷ creates a new

¹⁵ Department of State Hospitals Incompetent to Stand Trial Solutions Program Update, August 16, 2022, p.8.

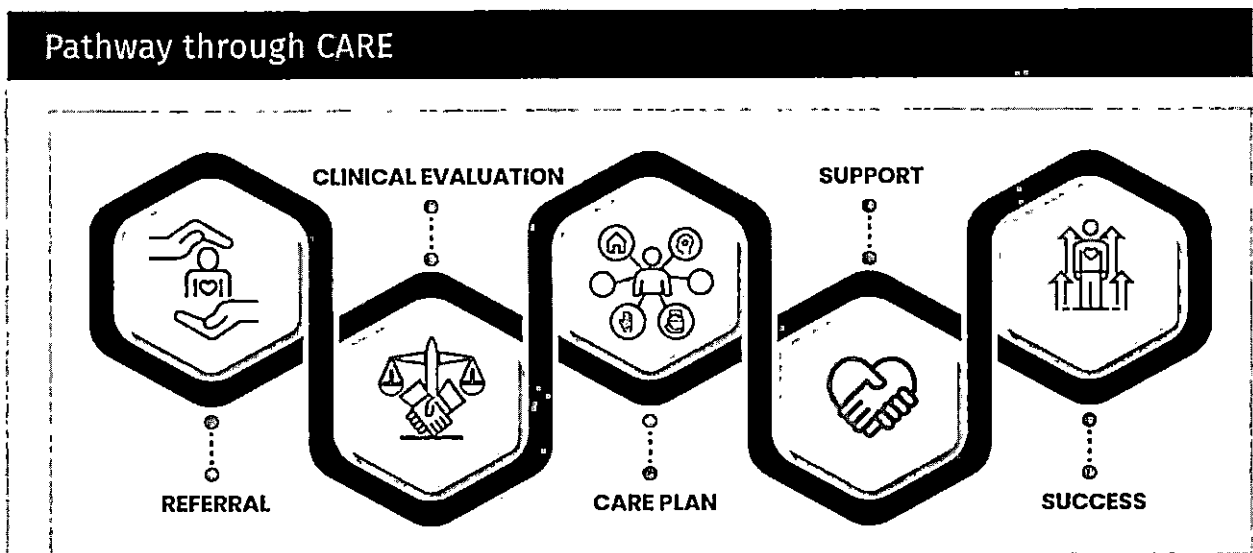
Source: [https://www.dsh.ca.gov/About Us/docs/IST SolutionsBudgetOverview 08-01-22.pdf](https://www.dsh.ca.gov/About%20Us/docs/IST_SolutionsBudgetOverview_08-01-22.pdf)
Last viewed June 17, 2023.

¹⁶ Health & Saf. Code sec. 1374.723.

¹⁷ Source: <https://www.gov.ca.gov/2022/09/14/governor-newsom-signs-care-court-into-law-providing-a-new-path-forward-for-californians-struggling-with-serious-mental-illness/> Last viewed May 21, 2023.

pathway to deliver mental health and substance use disorder services to individuals on the schizophrenia spectrum or other psychotic disorders who meet specific criteria. CARE ultimately connect(s) these individuals to effective treatment and support, mapping a path to long-term recovery.

At the end of 2024, Santa Barbara County will be required to implement CARE.¹⁸ The Jury learned that CARE implementation will require maximum cooperation and coordination between the Santa Barbara Superior Court, related justice agencies (Santa Barbara District Attorney, Santa Barbara Public Defender, Sheriff, and municipal police departments), County Behavioral Wellness, County Public Health, and many others. The agencies implementing CARE face the difficult task of “prioritizing those who need help the most, providing a comprehensive CARE plan that honors self-determination to the greatest extent possible,” and delivering services and housing that are key to long term stability and recovery.



¹⁸ Seven test counties will begin the program in October 2023, one will begin in December 2023, and the balance of the state, including Santa Barbara, will begin on December 1, 2024. California Courts, “Adult Civil Mental Health.” <https://www.courts.ca.gov/48654.htm> Last viewed June 14, 2023.

Illustration.¹⁹

The “CARE Plan” step will be developed by Santa Barbara County Behavioral Wellness, the participant and participant’s legal counsel, and will include a variety of behavioral health treatment(s), stabilization medication(s), and a housing plan. The Santa Barbara Superior Court’s role is to encourage participation by bringing service agencies together and to resolve conflicts between the subject and agencies. The court will have “limited ability to address non-compliance.” Persuasion, not coercion, is critical to CARE’s ultimate success.²⁰ The Santa Barbara Superior Court will initiate the CARE proceedings and thereafter review and adopt the CARE plan with both the participant and County Behavioral Health as party to the court order for up to 12 months.

The CARE approach is an extension of Assisted Outpatient Treatment (AOT), a.k.a. Laura’s Law.²¹ AOT provides court-ordered community treatment for individuals with a history of hospitalization and contact with law enforcement.²² According to the state Department of Health Care Services, AOT has met its goal by reductions of homelessness (-32%), hospitalizations (-40%), and contacts with law enforcement (-42%).²³

¹⁹See n 17.

²⁰ California Courts, Judicial Branch “CARE Act 101 Webinar: Overview of the Court’s Role in Implementation.” Judge Richard Couzens, comments begin at 21:00 (see slide at 32:35.) <https://www.youtube.com/watch?v=Jr98o8l8cvg> Last reviewed June 514, 2023.

²¹ Welfare and Institutions (W&I) Code Sections 5345 – 5349.1.

²² <https://www.dhcs.ca.gov/formsandpubs/Documents/Lauras-Law-AOT-Report-2021.pdf> Last viewed May 21, 2023.

²³ Department of Health Care Services Community Services Division, *Laura’s Law: Assisted Outpatient Treatment Demonstration Project Act of 2002 For the Reporting Period July 1, 2019 – June 30, 2020*, May 2022. Source: <https://www.dhcs.ca.gov/formsandpubs/Documents/Lauras-Law-AOT-Report-2021.pdf> Last viewed May 23, 2023.

In January 2017, Santa Barbara County Behavioral Wellness initiated a pilot AOT project. A non-government entity studied the Santa Barbara County pilot AOT results and found reductions in incarcerations, psychiatric emergency room visits, and hospitalizations.²⁴

A University of California Los Angeles (UCLA) study²⁵ concluded that Los Angeles County's AOT was highly effective in getting clients into treatment through outreach, engagement, and the use of the courts and judges (black robe effect).²⁶ However, it noted numerous inadequacies, including serious understaffing, failure to maintain client relationships, and poor coordination of referrals, to name a few.²⁷

The IST Solutions Program, AOT, and CARE Court Act will succeed in Santa Barbara County only if local community programs are organized and operated with sufficient staffing and adequate resources to meet their goals. The same UCLA study established lessons learned from Los Angeles area programs declared to have been only partially successful. These include:²⁸

²⁴ Santa Barbara County's Assisted Outpatient Treatment Program 2017 Annual Evaluation Report. April 2018.

Source: <https://content.civicplus.com/api/assets/f01ad67d-3c2b-4f00-ae48-e9906ac2d36c?cache=1800> Last viewed May 23, 2023.

²⁵ Starks SL, Kelly EL, Castillo EG, Meldrum ML, Bourgois P, Braslow JT. Client Outreach in Los Angeles County's Assisted Outpatient Treatment Program: Strategies and Barriers to Engagement. *Res Soc Work Pract.* 2022 Oct;32(7):839-854. doi: 10.1177/1049731520949918. Epub 2020 Aug 27. PMID: 36081900; PMCID: PMC9447859.

<https://pubmed.ncbi.nlm.nih.gov/36081900/>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9447859/pdf/nihms-1631159.pdf> Last viewed on May 30, 2023.

²⁶ The idea is that people will be encouraged to participate in treatment programs if suggested by judges rather than other institutional representatives.

²⁷ Joel Braslow. *ASSISTED OUTPATIENT TREATMENT EVALUATION FINAL REPORT*. UCLA Center for Social Medicine and the Humanities. June 2020. Source: <https://socialmedicine.semel.ucla.edu/aot/> Last viewed on May 23, 2023.

²⁸ Ibid. n 27. "Our Final Evaluation Report, June 2020," pp. 4-5 (a downloadable PDF). Last viewed on June 14, 2023.

1. Outreach efforts must be fully staffed and maintain client relationships once a client is enrolled in treatment;
2. Outreach efforts and referrals must be well coordinated based on clients' needs, diagnoses, current service status, and history;
3. AOT programs cannot become a substitute for crisis management treatment for the severely ill. The data demonstrated mental illness cases again become criminalized, and frequent victimization on the streets is ignored;
4. Clinical providers need more experienced staff, able to engage demanding clients on a long-term basis;
5. Providers are often unable to meet the essential needs of AOT clients due to inadequate and poorly coordinated county resources. First, many clients need substance abuse treatment coordinated with mental health care. Second, they need stable housing; however, housing slots that will accept these clients are limited. As a result, providers are often forced to compete for them;
6. Not all providers can offer early medical appointments and timely follow-ups; consequently, not all clients can have medications and dosages adjusted as needed;
7. AOT clients are often discharged before treatment is completed. Many are then re-referred; many clients are repeatedly re-engaged and re-enrolled, completely losing continuity of care;
8. Poor system coordination and inadequate hospital bed space often result in inadequate response to AOT clients in crisis. Clients are repeatedly hospitalized and released after only short stays without notification of AOT or the clinical provider. In addition, clients are jailed and again released without adequate coordination. As a result, hospital and jail days for AOT clients may be reduced without positively impacting on the client; and

9. The court order, meant to enforce AOT client compliance through the "black robe effect," will only succeed in a system with good resources and sufficient providers with adequate experience.

Santa Barbara County Superior Court's exceedingly high IST caseload

Santa Barbara County Superior Court made 77 IST²⁹ referrals to DSH in the first two quarters of FY 2022-23, compared with 90 during all of FY 2021-22. Santa Barbara's 77 referrals as of December 31, 2022, is one of the highest in the state. By contrast, and with twice the population, Ventura County had only 52 during the same period. If Santa Barbara's pace of IST referrals continues for the year, 154 IST referrals will result. Under the IST Solutions Program penalty charges accrue for excessive IST referrals.³⁰ The Jury learned that penalties imposed on Santa Barbara County could run as high as six million dollars.

CONCLUSION

The Santa Barbara County community faces a monumental task of providing effective treatment options for the mentally ill in place of the arrest-jail-court-arrest cycle. For those with mental health challenges, including those diagnosed with severe mental illness, Santa Barbara County faces an enormous challenge to divert individuals into comprehensive community services. It is incumbent upon stakeholders to allocate resources to keep the non-violent mentally ill out of jail.

²⁹ https://www.dsh.ca.gov/Treatment/docs/ISTReferralsForGrowthCap_FY2022-23Q2. See p. 2 Last viewed June 14, 2023.

³⁰ Ibid. p.2.

FINDINGS AND RECOMMENDATIONS

Finding 1

Although the Sheriff's Office hired a statistician in July 2022 to compile information about inmates suffering from mental health conditions, as of the date of this Report, the Jury was not provided with any information regarding the number of inmates who have substance abuse and/or mental health disorders or illnesses.

Recommendation 1

That the Santa Barbara Sheriff's Office compile and report monthly to the County and the public the number of inmates who have substance abuse, mild to moderate mental health disorders or serious mental illness.³¹

³¹ "Mild to moderate mental health disorders" are defined as those that cause mild to moderate distress or impairment of mental or emotional, or behavioral functioning. "Serious mental illnesses" are defined as diagnosable mental, behavioral, or emotional disorders resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities. These disorders and illnesses include but are not limited to: Anxiety Disorders, Attention Deficit Hyperactivity Disorders (ADHD, ADD), Autism Spectrum Disorders (ASD), Bipolar Disorder, Borderline Personality Disorder, Depression, Disruptive Mood Regulation Disorder (DRMD), Eating Disorders, Obsessive-Compulsive Disorder (OCD), Post-Traumatic Stress Disorder (PTSD), and Schizophrenia. Source: CalBudgetCenter.org, *Mental Health In California*, p. 74, <https://calbudgetcenter.org/resources/mental-health-in-california/> Last viewed June 17, 2023.

Finding 2

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

Recommendation 2

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

Finding 3

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

Recommendation 3a

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

Recommendation 3b

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

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

Finding 4

For the first two quarters of FY2022-23, the Santa Barbara County Incompetent to Stand Trial caseload is one of the highest in the state.

Recommendation 4a

That Santa Barbara County work with countywide criminal justice agencies³² to analyze why the Santa Barbara County Incompetent to Stand Trial caseload is one of the highest in the state.

Recommendation 4b

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

REQUEST FOR RESPONSE

Pursuant to *California Penal Code Section 933 and 933.05*, the Santa Barbara County Grand Jury requests each entity or individual named below to respond to the enumerated findings and recommendations within the specified statutory time limit:

Responses to Findings shall be either:

- Agree;
- Disagree wholly; or
- Disagree partially with an explanation.

³² Santa Barbara County District Attorney, Public Defender and Sheriff-Coroner, and municipal law enforcement agencies.

Responses to Recommendations shall be one of the following:

- Has been implemented, with a summary of implementation actions taken;
- Will be implemented with an implementation schedule;
- Requires further analysis, with an analysis completion date of no more than six months after the issuance of the report; or
- Will not be implemented, with an explanation of why.

- **Santa Barbara County Board of Supervisors – 90 days**

Findings 2, 3, and 4

Recommendations 2, 3a, 3b, 4a, and 4b

- **Santa Barbara County Sheriff's Office – 60 days**

Finding 1

Recommendations 1, 4a, and 4b

- **Santa Barbara County District Attorney – 60 days**

Recommendations 4a and 4b

- **The Jury respectfully requests a response from the Santa Barbara County Public Defender – 60 days**

Recommendations 4a and 4b