CONTRA COSTA
MENTAL HEALTH COMMISSION

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**Mental Health Commission**
**Justice Systems Committee Meeting**
**Tuesday, March 22nd, 2022, 1:30-3:00 PM**
**Via: Zoom Teleconference:**

**https://zoom.us/j/5437776481**
**Meeting number: 543 777 6481**

**Join by phone:**
**1 669 900 6833 US**
**Access code: 543 777 6481**

# AGENDA

I. **Call to order/Introductions**

II. **Public comments**

III. **Commissioner comments**

IV. **Chair comments**

V. **APPROVE minutes from the February 22nd, 2022 Justice Systems Committee meeting**

VI. **DISCUSS A$^3$ (Anyone, Anytime, Anywhere) Program and the development process, Dr. Chad Pierce, Mental Health Program Manager, Contra Costa County Behavioral Health Services (CCBHS)**

VII. **DISCUSS Governor Newsom's new "Care Court" Initiative (Law)**

VIII. **DISCUSS supporting documentation for the Justice Committee motion approved at the March 2nd, 2022 Mental Health Commission meeting in preparation for submittal to the Board of Supervisors**

**(Continued on Page Two)**

## IX. DISCUSS report on 'Evaluating California's Conservatorship Continuum' by Alex V. Barnard, New York State University, Department of Sociology

## X. Adjourn

**ATTACHMENTS:**

A. **Update on Governor's CARE Court Proposal 3.9.22**
B. **Article - Newsom's Mental Health Plan (SF Chronicle)**
C. **Article - Mentally Incompetent Defendants (SF Chronicle)**
D. **Article - Mentally Ill People in SF (SF Chronicle)**
E. **Motion - Justice Systems Motion and Vote Tally from the March 2nd, 2022 MHC meeting.**
F. **Report - Absent Authority: Evaluating California's Conservatorship Continuum Executive Summary (AVBarnard)**

March 9, 2022

To: CSAC Board of Directors
County Administrators/Executives
County Legislative Coordinators
County Caucus

From: Graham Knaus, CSAC Executive Director
Jacqueline Wong-Hernandez, CSAC Deputy Executive Director, Legislative Affairs

**RE: Update on Governor's CARE Court Proposal**

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CSAC is closely engaging with Governor Newsom on his new CARE Court proposal. His announcement last week in Santa Clara County presented it as a new tool that links both the homelessness crisis and individuals living with unmet behavioral health needs.

CSAC is closely engaging with Governor Newsom on his new CARE Court proposal. His announcement last week in Santa Clara County presented it as a new tool that links both the homelessness crisis and individuals living with unmet behavioral health needs.

Community Assistance, Recovery, and Empowerment (CARE) Courts include:

- A new tool/pathway to refer a person with a psychiatric condition to civil court
- Participants can be referred by family members, clinicians, first responders, behavioral health workers, public guardians, and crisis response teams
- Participants would be paired with a court-employed "Supporter"
- Participants and Supporters must use "Shared Decision Making" model to develop voluntary treatment plan
- Treatment plan can include stabilizing medication, housing, and access to behavioral health and social services
- County Behavioral Health, Public Defenders, Public Guardians/Conservators, as well as other county services, are envisioned as key providers for the treatment plan. The Governor believes that counties can accommodate these new duties as part of our existing roles and service responsibilities.
- If a provider of services fails to comply with the treatment plan, that provider – including counties – could be sanctioned by the court.
- Participation would last up to 12 months, with a single 12-month renewal, after which a person could referred for conservatorship, Full Service Partnerships (FSPs), or involuntary commitment.

CSAC shares Governor Newsom's urgency to assist those who are unsheltered in our communities. While the Governor estimates about 7,000 to 12,000 Californians would be eligible for CARE Court, this new tool would only serve about six percent of the state's current homeless population. We welcome discussion about all-of-the-above type strategies in this policy area that may include a refined version of CARE Court while ensuring sufficient

funding for increased expectations as well as for related services such as the Peer Support program, Laura's Law, and Public Guardians and Conservators.

This proposal, and more broadly tackling homelessness, requires all levels of government – counties, cities, and the state – to work together with clearly defined roles and sustainable resources. It's time to take our homelessness efforts to the next level with a laser focus on creating housing and examining the chronic underfunding of key supportive services. Every level must have some skin in this game, and counties welcome this larger conversation, which is paramount to transform homelessness and behavioral health capacity in the state.

Moving forward, counties require clarity on any county role(s) and new duties, resources, and accountability associated with CARE Court or other homelessness proposals. The CSAC Officers have convened initial conversations with the Governor's Office and Administration, and your CSAC team is also convening county affiliates and other partners to navigate this issue. The CSAC Board of Directors discussed the proposal on March 3 when it was merely hours old, and the CSAC Executive Committee will discuss in further detail on March 23.

The CARE Court proposal, while innovative, will not solve or end homelessness in our communities until housing and major systemic problems, including accountability, fragmentation, siting, and chronic underfunding are also addressed.

We welcome your thoughts, concerns, and input as we navigate this complex issue. Please don't hesitate to reach out to either of us.

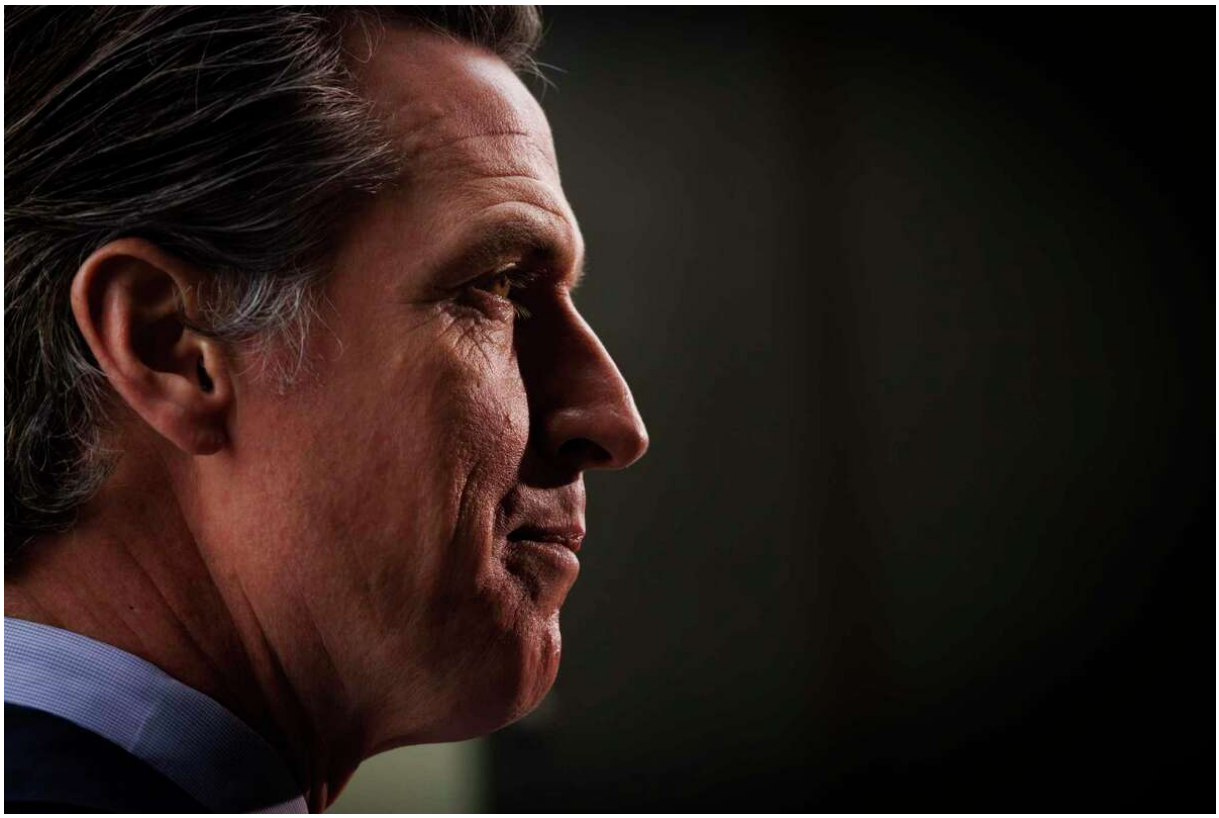
Thank you,

Graham Knaus
gknaus@counties.org
Jacqueline Wong-Hernandez
jwong-hernandez@counties.org

BAY AREA

# Counties say they're 'all in' on Newsom's mental health plan -- if it comes with enough money

Sarah Ravani, Dustin Gardiner
March 4, 2022 Updated: March 5, 2022 1:57 p.m.



Gov. Gavin Newsom, pictured in January, announced his proposal for a "CARE Court" on Thursday in San Jose.
Peter DaSilva/Special to The Chronicle

SACRAMENTO -- Gov. Gavin Newsom's plan to overhaul California's mental health care system by expanding treatment services and compelling more people to accept help was cheered by many local government officials this week.

But for many counties, the difficult question now is how they would pay for such an ambitious expansion of treatment and court services when many locales are already struggling to provide such care.

Graham Knaus, executive director of the California State Association of Counties, warned that many behavioral and social health systems are still digging out from decades of underfunding. He said the part of Newsom's plan that calls for sanctions if counties cannot provide comprehensive treatment to those suffering from debilitating psychosis is misguided.

“Counties are all in to do our part to solve homelessness and rebuild behavioral health infrastructure,” Knaus said in a statement. “Sanctions are not the way to do it.”

Newsom’s plan, dubbed Community Assistance, Recovery and Empowerment Court, or CARE Court for short, would create a new civil court division in every county to focus on mental health issues. Counties would be required to provide a full scope of drug addiction and behavioral treatment for people in the program, who would be compelled to accept the care.

The governor stressed Thursday that the state budget he signed last year includes a record $12 billion in funding to address the homelessness crisis. His proposed budget for the next fiscal year, which he unveiled in January, calls for an additional $2 billion in new funding to provide housing for mentally ill people and to clear homeless encampments.

“Rather than reforming in the margins a system that is foundationally and fundamentally broken, we’re taking a new approach,” Newsom said during a news conference at a treatment center in San Jose. “But we’re offering it in a way that we haven’t in the past -- and that’s with resources.”

Newsom said if the Legislature approves his proposal, the state will have funding for 33,000 new beds and placements for homeless and mentally ill people. His administration hasn’t said how much the CARE Court proposal would cost, though the revised budget he’s expected to present to legislators in May may include more details.

Still, several Bay Area counties contacted by The Chronicle said they need to know more about what exactly the state would require of them, in terms of providing comprehensive care, to determine whether they could afford it.

Michelle Doty Cabrera, the executive director of County Behavioral Health Directors Association of California, said her group is eager to learn more about what CARE Court would entail. But she’s hesitant about the “punitive” aspect with sanctions. She said county behavioral health services need funding to hire more workers and to pay them fairly.

“Respectfully, we are structurally underfunded,” she said. “This would be a new set of responsibilities.”

The CARE Court effort is Newsom’s long-awaited plan to expand nonvoluntary treatment for homeless people and others with chronic mental-health conditions who refuse medical intervention.

People could be directed to the program in three scenarios: if they are charged with a crime, their involuntary hold in a psychiatric facility is ending, or they are referred by a family member or health worker. If the person refuses to participate, their criminal case would proceed. If they are not charged with a crime, the person could be placed in a form of court-ordered treatment.

The top two Democrats in the state Legislature -- Assembly Speaker Anthony Rendon of Lakewood (Los Angeles County) and Senate President Pro Tem Toni Atkins of San Diego -- did not endorse the plan right away. Atkins said lawmakers are waiting to get more details and will try to refine it through the budget process.

“This isn’t an easy issue and we need to make sure to get this right,” she said in a statement.

Some county officials questioned whether Newsom’s approach would duplicate existing behavioral courts in some parts of the state. The San Francisco Public Defender’s Office said Newsom is looking for a “fast solution to a very deeply entrenched problem.” The office said many of its clients must currently wait nine weeks to six months in jail for treatment.

“But the reality is that we already have a number of alternative courts,” the office said in a statement. “We don’t need another court that criminalizes mental health and poverty. What we need is to have a fully funded mental health system.”

But many city leaders from across the state have been more receptive. Mayors of several large cities -- Sacramento, Los Angeles, San Diego, Oakland, San Jose, Bakersfield, Riverside -- gathered virtually Friday for a roundtable discussion on CARE Court and applauded the governor’s “bold” proposal.

“Our system is cycling our mothers, our fathers, our sisters, our brothers through an inhumane and ineffective cycle of despair and neglect,” Oakland Mayor Libby Schaaf said.

In a one-year span, Oakland ambulances sent people to a psychiatric hospital 4,000 times for so-called 5150 psychiatric holds, and 117 of those individuals were transported six times or more during that time, Schaaf said.

The mayors said that housing efforts must be coupled with mental health help -- whether voluntary or compelled.

“There is nothing compassionate about letting people decompose before our very eyes,” said Bakersfield Mayor Karen Goh.

Sacramento Mayor Darrell Steinberg said that CARE Court would require a “significant amount of new resources” for courts to expand their capacity. He said cities and counties need more beds and more workers in the mental health field.

“The systems are still fragmented, and we are not working with the level of urgency and direction between cities and counties that the public is demanding,” Steinberg said. “By turning the law on its head and saying that treatment is going to be mandatory and no longer optional … you’ve got a very powerful formula.”

*Dustin Gardiner and Sarah Ravani are San Francisco Chronicle staff writers.*
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BAY AREA

# Mentally incompetent defendants languishing in jails, must be given prompt care, court rules

Bob Egelko
June 16, 2021 Updated: June 16, 2021 5:26 p.m.

The main entrance of the Martinez Detention Facility in Contra Costa County — in 2017 mentally incompetent defendants were being held in county jails an average of 64 days after officials received all the transfer documents. An order to take effect next year will knock that down to 28 days.
Gwendolyn Wu/

A state appeals court says California is sending defendants to jail for months after they have been found mentally incompetent to stand trial, in violation of a law that entitles them to prompt medical care.

In a statewide ruling Tuesday, the First District Court of Appeal in San Francisco upheld an Alameda County judge's 2019 order requiring the state to provide medical care, in a hospital or other facility, 28 days after receiving orders to provide treatment because of a court's

finding of incompetence. The order by Superior Court Judge Winifred Smith is scheduled to take effect next year.

People charged with crimes cannot be tried or allowed to plead guilty if they are unable to understand the proceedings or communicate with a lawyer. Under state law, they are supposed to be taken to a state hospital or other treatment center, where they can be held for up to two years while undergoing care to restore their competency. If those efforts fail, the state can seek to keep them hospitalized in a non-criminal commitment or free them.

But in 2017, those defendants were being held in county jails for an average of 86 days, after the trial judge's transfer order, before the state was able to send them to a hospital, the appeals court said. Using an alternate standard, the court said the average wait time was 64 days after officials received all the transfer documents.

And the court said the waiting periods have increased during the pandemic, despite the state's efforts to increase hospital resources and treatment. Plaintiffs in the lawsuit said about 1,600 jail inmates are now on the waiting list for hospital admission, an increase of 500% since 2013, and between 300 and 400 a month are sent to hospitals.

California has "systematically violated the due-process rights of all (incompetent to stand trial) defendants in California" by keeping them jailed for extended periods before hospitalization, Presiding Justice J. Anthony Kline said in Tuesday's 3-0 ruling.

He said mentally incompetent defendants often suffer further harm in jail, where crowded conditions, violence and the absence of treatment programs can cause more deterioration and delay their recovery. Kline said courts throughout California have set various timetables for hospital transfers of local inmates in the past few years, ranging from 14 to 60 days, but a statewide standard is needed.

The suit was filed in 2015 by the American Civil Liberties Union and five relatives of defendants who had been found incompetent to stand trial.

"These are people who have not been convicted of any crime and cannot even demand a trial because of their condition," said attorney Michael Risher, who represented the ACLU in the case. "The ruling affirms that they must have access to prompt treatment, and it highlights the need for the Legislature to address the root causes of this crisis once and for all."

The best approach, Risher said, would be placement and treatment in the local community.

The Department of State Hospitals said that it was reviewing the ruling.

*Bob Egelko is a San Francisco Chronicle staff writer.*
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BAY AREA//HEATHER KNIGHT

# Mentally ill people in S.F. are cycling in and out of emergency rooms. One doctor shares stories about our broken system

Heather Knight
March 9, 2022

Dr. Scott Tcheng is an emergency room physician at several San Francisco hospitals.
Carlos Avila Gonzalez/The Chronicle

Dr. Scott Tcheng will never forget some of the people who come to his San Francisco emergency room in desperate need of help.

One man who arrived by ambulance looked like the Joker, his face and hands covered in animal blood. A 911 caller had spotted him eating a raccoon crushed by a car on a city street.

Tcheng has treated patients high on methamphetamines who are convinced a mouse is crawling inside their body or that someone has cut off their genitals with a sword.

One person on meth was treated after trying to steal a parked ambulance -- with a patient inside. Another tried to captain the Pampanito, the floating submarine museum at Fisherman's Wharf, but fell into the bay. He had hypothermia by the time a rescue team fished him out.

Just the other day, Tcheng treated a 31-year-old woman who is homeless, suffers from schizophrenia and has come to the ER about 150 times -- usually to request pregnancy tests, but sometimes just for food and a place to sleep. This time, the pregnancy test came back positive, but the woman refused offers of hotel vouchers or a shelter bed. So the hospital released her back to the streets.

Other patients suffering from severe, untreated mental illness or meth-fueled psychosis have become violent toward hospital staffers, wrecked medical equipment, brandished knives and hurled their own feces. Some return to the ER shockingly often. Tcheng said one of his patients has visited emergency rooms around San Francisco hundreds of times in the past year.

What unites these patients, beyond their struggles, is their clear need for long-term care. But they're usually not getting it. Not even in a rich city and a rich state that claim to be compassionate and caring.

The patients are often too sick to accept care. And frequently, there isn't enough care, or adequate services, to meet their needs. Tcheng must send them back into the world, untethered, until the next ER visit.

"It's so important that the people of San Francisco know about this," Tcheng said, explaining his decision to go public about his patients. "They walk by it every day on Market Street and in SoMa, but the average San Franciscan doesn't realize how deep it goes."

Tcheng said he's "cautiously optimistic" that a sweeping new proposal from Gov. Gavin Newsom could make a difference.

Called CARE Court, Newsom's plan would require every county to provide needed treatment for people suffering from psychosis, whether due to mental illness or drug addiction, and would mandate that patients accept the help. Patients could be brought to the civil court because they allegedly committed a crime, because their involuntary psychiatric hold is ending or because they're deteriorating on the streets.

If they don't comply with a court-ordered treatment plan, a judge could turn them over to the regular criminal system, order additional involuntary holds or move toward conservatorship.

Newsom's proposal suggests he has learned lessons since his time as mayor, when he dealt with recession-fueled budget cuts in part by slashing the number of psychiatric beds at San Francisco General Hospital. A dire bed shortage remains all these years later. He also cut beds in homeless shelters and closed drop-in centers where people could get help during the day.

San Francisco General Hospital is now the only hospital in the city with a dedicated psychiatric emergency room, but there are far more people needing its services than there are beds. So they're often taken to regular emergency rooms for stabilization or because they also have medical issues that need to be addressed.

That sometimes means other patients -- with strokes, heart attacks or injuries -- must wait, Tcheng said.

“Someone coming in three and four times a day takes a toll on the system,” he said. “It’s incredibly dispiriting.”

He compared the fight against San Francisco’s threefold crisis -- a lack of housing, mental health care and drug treatment -- to building a three-legged stool. Addressing just one or two legs won’t work.

Tcheng, a 36-year-old Potrero Hill resident, works in four emergency rooms around the city, but couldn’t get permission from his bosses to name them. But really, they’re interchangeable -- each one flooded daily with unsheltered patients suffering from psychosis who need treatment but aren’t getting it.

Rachel Rodriguez, a social worker in another emergency room in the city, confirmed the crisis exists at her hospital, too. She couldn’t talk for a while Tuesday because, as she texted, her ER was “bursting” with psychiatric patients. She said social workers are so strapped caring for psychiatric patients that they often can’t provide help to others who need it -- such as domestic violence victims or those hurt in car crashes.

She has started emailing the Department of Public Health every day with a tally of the people waiting for acute psychiatric beds in her hospital alone. One email from last month showed 15 patients ranging in age from 21 to 86, a few waiting a month or longer.

Rodriguez said she’s reserving judgment about Newsom’s plan. But her husband, Charlie Berman, a clinical social worker in San Francisco, said he fears it’s nothing more than “a political facade masking the ineffectuality of a rotten system,” and called the city’s emergency rooms “extensions of the Tenderloin with ambulances providing taxi service in between.”

Berman said the governor’s plan will fail without a major investment in locked psychiatric wards and beds designed for people with both mental illness and substance use disorder. Both are very expensive.

Tcheng is more hopeful -- provided the governor finds the money to pay for treatment through CARE Court. Civil libertarians are already speaking out against the plan, saying that mandating care is inhumane and not as effective as providing voluntary services, but Tcheng said the real inhumanity is playing out in the city’s emergency rooms every day.

“I fundamentally reject the notion it’s more compassionate to let these people live on the streets and die in alleyways than to mandate that they get care,” Tcheng said. “I just think it’s appalling what San Francisco has allowed to happen to some of these patients.”

He cited Mary Botts, the San Francisco homeless woman dubbed “Princess Leia” for often wearing her hair in buns on the sides of her head, sometimes held together with syringes. She frequently walked into traffic at Castro and Market streets and slept in the gutter.

Tcheng said he treated her at least a dozen times -- but kept releasing her back to the streets because she didn't want help and there was nowhere to send her. She died of a drug overdose in November 2020 at age 28.

At a Board of Supervisors hearing last week, Superior Court Judge Michael Begert addressed the severe shortage of treatment beds. He oversees drug court, which aims to clear defendants' arrests if they can prove they've successfully addressed the drug problem that led them to commit the crime. Begert said he has never been able to access a treatment bed for somebody who allegedly committed a crime and suffers from both mental illness and a drug addiction. Instead, such people often linger in jail -- with one person waiting 264 days behind bars for a bed -- until they're eventually released, having further deteriorated while jailed.

"This is not treatment on demand, and they've been talking about treatment on demand for at least 25 years," Begert said.

Two years ago, the Department of Public Health released a study stating the city needs 400 more treatment beds, but it's added only 89 beds since then. And even 400 might not be enough, said Supervisor Hillary Ronen. She said the board hearing left her with "a mix of exasperation, sadness, frustration, but also a new resolve" to vastly improve the city's mental health system.

Ronen said she doesn't know enough about CARE Court to form an opinion, but hopes it's not another "shiny new program" from a politician wanting to look good.

For now, Tcheng will keep seeing the same patients in his ER, and many will leave no better off than when they arrived. The man who tried to steal the submarine got released after he slept off his high. Tcheng doesn't know what happened to him after that.

As for the man who ate a raccoon?

Tcheng said he asked a psychiatrist to evaluate whether he should be treated under an involuntary hold. But, he said, the man wasn't deemed to fit the requirement of being "gravely disabled" under state law if he could secure his own food. Even if that food was roadkill.

Tcheng said he managed to get a different doctor to test the man for rabies, but he lost track of him after that.

"Hopefully, he got some sort of psychiatric care," Tcheng said. "But knowing San Francisco, I doubt it."

*San Francisco Chronicle columnist Heather Knight appears Sundays and Wednesdays.*
*Email: hknight@sfchronicle.com  Twitter: @hknightsf*

**February 2, 2022 Mental Health Commission Meeting**
**Agenda Item VII: MOTION**

Advise the Board of Supervisors to add to its legislative platform the goal that the State appoint and fund a Statewide Conservatorship Director, whose job it would be to provide uniform guidelines to all counties in the state, under which all counties would operate and conform. The position should be funded and mandates that the State require of the Office of the Public Guardian should be funded.

**Cmsr Moving to Approve:** **Cmsr. Leslie May**

**Cmsr Second Motion:** **Cmsr. Graham Wiseman**

**Vote:**

| | |
|---|---|
| Chair- Cmsr. Barbara Serwin, District II | **Aye** |
| Vice-Chair, Cmsr. Laura Griffin, District V | **Aye** |
| Cmsr. Candace Andersen, District II | **Aye** |
| Cmsr, Douglas Dunn, District III | **Aye** |
| Cmsr. Kathy Maibaum, District IV | **Aye** |
| Cmsr. Leslie May, District V | **Aye** |
| Cmsr. Joe Metro, District V | **Aye** |
| Cmsr. Alana Russaw, District IV | Absent |
| Cmsr. Rhiannon Shires, District II | **Aye** |
| Cmsr. Geri Stern, District I | **Aye** |
| Cmsr. Gina Swirsding, District I | **Aye** |
| Cmsr. Graham Wiseman, District II | **Aye** |
| Cmsr. Yanelit Madriz Zarate, District I | **Aye** |

**Votes: 13-0-0**
**Abstain: None**

**Notes/Future Action:**

**Absent Authority: Evaluating California's Conservatorship Continuum**
*Executive Summary*

Alex V. Barnard
New York University
Department of Sociology

*Introduction*

- In California, "conservatorships" under the Lanterman-Petris-Short Act allow a county Public Guardian or family member to require a person with a severe mental illness to live in a locked facility and accept medication. Conservatorships constitute an enormous restriction of civil liberties in the name of preserving the life and well-being of people who are "gravely disabled," or unable to meet their needs for food, clothing, or shelter. Although policymakers in California are currently discussing expanding the use of conservatorships, there is very little research on how conservatorships are currently functioning.
- This research project set out to understand decision-making along the "continuum of constraint"—the series of medical, legal, and bureaucratic steps through which someone is placed in a hospital, ordered onto a conservatorship by a judge, and moved to a long-term mental health facility. This report draws on over one-hundred-fifteen interviews with stakeholders in twenty-three counties, plus documents, media reports, administrative statistics, observations of working groups, and a review of the published literature on conservatorship.
- I argue that the conservatorship system in California is one of "absent authority": although some people are conserved, there is a lack of clear responsibility, oversight, evaluation, and coordination in the continuum. Although there are many steps in the continuum where a person can be blocked from going onto a conservatorship, there is no one accountable for ensuring that people who need high-intensity involuntary care through conservatorship receive it. Moreover, there are insufficient guarantees that potential conservatees' due-process rights are protected or that the restrictions of civil liberties they face are balanced with appropriate, fully resourced, and high-quality services.

*Findings*

- Some research has found that short-term psychiatric holds ("5150s") are used liberally by police to clear streets without resorting to arrest. But both outpatient clinicians and family members reported that getting these holds is extremely difficult when someone is not homeless and not engaged in visibly disruptive behaviors. 5150 evaluations by both police and mobile crisis teams are superficial and pay little attention to someone's condition outside of their immediate presentation. Families often felt they had to exaggerate the dangerousness of their family members or stop providing for their basic needs to get help.
- Clinicians strictly screen people brought to Emergency Departments in ways that filter out many people who social service agencies, outpatient providers, police officers, or family members see as needing conservatorship. They are more likely to admit people who have disruptive or dangerous behaviors than those who are gravely disabled. ERs frequently release people with drug use and people whose needs are seen as more social than medical, even when they have a severe mental illness. As a result, some people accumulate enormous numbers of 5150 holds without ever connecting to long-term treatment.

- Hospitals face strong financial incentives to provide only short-term care. The very outpatient clinicians, housing providers, and family members fighting to hospitalize someone face immediate pressure from hospitals to take that person back, often when they are barely stabilized. Medicaid rules penalize hospitals for holding people while a conservatorship is put in place. This makes applying for conservatorship particularly unappealing to for-profit private facilities, which account for half of the psychiatric beds in California authorized to take involuntary patients. Inpatient physicians typically require that a person has multiple hospitalizations and failed returns to the community before applying for conservatorship.
- Public Guardians, with a limited budget and mandate to ensure that counties only take responsibility for someone when no other entity is able to, treat conservatorship as a last resort. Given the current housing situation in California, many describe their investigations as focused on screening out those who are "successfully homeless"—able to meet their basic needs in some minimal way—versus those who are essentially at risk of death on the streets. However, because so many people drop off the continuum at earlier steps, all public guardians interviewed said that they filed on most referrals sent to them by hospitals.
- The formal legal protections for potential conservatees and procedural barriers to a court ordering a conservatorship are substantial. However, public defenders reported that they faced barriers to effectively representing conservatees because of high caseloads, the difficulty of assessing whether conservatees actually wanted to contest their conservatorship, and their belief that in some cases only a court order would ensure that their clients were given appropriate services. Courts grant the vast majority of conservatorship petitions. Judges (and especially juries) most frequently refuse requests for conservatorship when a person can identify a responsible third party able to provide for their basic needs.
- Counties varied in whether they expected all conservatees to be in locked facilities. Some private sub-acute placements "cherry pick" conservatees to avoid those with complex medical needs or violent behaviors, both of which might put their license or financial bottom-line at risk. Counties compete with one another for placements, creating absurd outcomes like people placed hundreds of miles away because a nearby facility's beds are contracted to a different county, itself hundreds of miles away.
- Some counties also place conservatees in unlocked, community-based placements. However, such "Board and Care Homes" are evaporating due to rising staffing costs, tightening regulations, and opportunities to convert to serving populations for whom public financing is more favorable (such as people who are homeless or living with developmental disabilities). The remaining operators can also choose to screen out conservatees they see as more problematic, like those with co-occurring substance use issues.
- Many interviewees, notably including public defenders, believe that diverting some people from the criminal justice system will require expanding *involuntary* treatment. Public Guardians in turn report a substantial increase in referrals for conservatorship from the criminal justice system. Many felt that they lacked the training or resources to serve this population, and that there were no placements available for them. Reformers who want public guardians to take on new groups of clients may have confused conservators' enormous power over *conservatees* with their limited authority over *conservatorships*, which requires cooperation and financing from a range of other entities.

*Recommendations*

- There is a dearth of data to evaluate how conservatorships are functioning. A recent state audit did not analyze key steps in the conservatorship process and only covered three

counties. Research is needed to track which placements for conservatees are most lacking, for which patient profiles and situations conservatorship is most likely to be beneficial, and whether new models (like "community" or "housing" conservatorships) lead to better outcomes. Reformers should be cautious about extrapolating data from different forms of legally-obligated treatment, like Assisted Outpatient Treatment, to make arguments about expanding conservatorship.

- There is enormous variability in how counties use conservatorships, which does not seem justified by actual differences between their socio-economic conditions or demographics. The state should offer much clearer guidance on how to define "grave disability" and what kinds of placements should be considered for conservatees. It should ensure that some public actor has responsibility and authority for coordinating the process of putting conservatorships in place when needed. It should also improve financing and training for public defenders and judges to ensure that any expansion of conservatorship is coupled with protections for conservatees' rights.
- A lack of appropriate placements drives decision-making throughout the conservatorship continuum. While some advocates believed that the criterion of "grave disability" needs to be broadened, most interviewees felt that the category is flexible enough to expand to fill any new beds that become available. However, creating mechanisms to ensure that decision-making takes into account past history, future prognosis, and information from families and outpatient clinicians could ensure any new conservatorships are well-targeted.
- A wide range of stakeholders agree that California needs additional beds in structured settings and that a combination of outpatient care and supported housing is not sufficient for some clients. However, there has been little reflection about the costs and benefits of having facilities that are privately versus publicly run. Counties will either need to create public facilities or make changes to contracting with private ones to ensure that the neediest cases get served. Regulators should also make sure that people in these placements are regularly re-evaluated and not lingering due to a lack of spots in less restrictive settings, as is currently the case.