

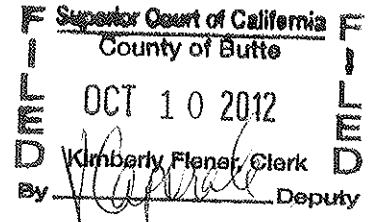
# Butte County

LAND OF NATURAL WEALTH AND BEAUTY

**BUTTE COUNTY DEPARTMENT OF BEHAVIORAL HEALTH**  
*Anne Robin, MFT, Behavioral Health Director - Alcohol and Drug Abuse Administrator*

August 28, 2012

Honorable Stephen E. Benson, Presiding Judge  
Butte County Superior Court  
One Court Street  
Oroville, CA 95965



**RE: Response to 2011-2012 Grand Jury Report**

Dear Judge Benson:

Please find below the responses to the 2011-2012 Grand Jury Report in accordance with Penal Code Sections 933 and 933.05. The Behavioral Health Department appreciates the many long hours the members of the Grand Jury spent interviewing, investigating, and reviewing aspects of our Department.

## **FINDINGS**

F1: The hiring of a new Director for DBH has produced some positive results. Many on the staff appreciate her dedication and professionalism and she has represented the County well at the regional and State levels. Her on-going efforts to find solutions to long-term problems within the Department are recognized by the Grand Jury.

### **Response:**

The respondent agrees with the finding and appreciates the Grand Jury's comments.

F2: Some recently implemented programs are having positive effects. The WIN program is helping meet the needs of consumers coming out of in-patient placement and in reducing recidivism. The WRAP® program has the support of consumers and staff. CIT is a program designed to provide law enforcement personnel with new levels of knowledge which will assist them in deescalating situations involving consumers with a mental health crisis.

### **Response:**

The respondent agrees with the finding.

F3: The utilization of employment programs by consumers is a positive resource providing work experience that often leads to employment in the private sector or within the Department.

**Response:** The respondent agrees with the finding.

F4: The lack of community based long-term planning has impacted Department programs in a number of ways. Current efforts to develop a strategic plan for the Department are a positive step if all members of the behavioral health profession in the County and the general public are encouraged to participate.

**Response:** The respondent agrees with the finding.

F5: The continuum of care necessary to meet the needs of consumers is underdeveloped. Long-term planning will assist in identifying gaps in service and prioritize needs.

**Response:** The respondent partially disagrees with the finding. Butte County has a continuum of care in place. However, elements and resources at certain service delivery points are insufficient to meet the needs. The department is currently working with Ampla Health and North Valley Indian Health to provide physical health care and “step down” capacity for consumers. This will help to alleviate the overloaded medical services of the department. The department is continuing to work with law enforcement and area hospitals to better coordinate crisis response.

F6: Reduced staffing levels have resulted in a fragmented approach to the intake and assessment of consumers at the various out-patient facilities leading to problems in continuity and coordination of care delivered to consumers.

**Response:** The respondent partially disagrees with the finding. The lack of staff training, support, and standardized practices across the system has at times led to confusing or fragmented intake process. The department is working to standardize the intake process and streamline when possible. Staffing levels can also contribute to fragmentation at intake, and this is being addressed by adding more licensed staff approved in the fiscal year 2012-13 budget.

F7: Due to the difficulty of recruiting and retaining a Medical Director, DBH needs to reevaluate this position so that it can best make use of the number of psychiatrists available.

**Response:** The respondent agrees with the finding. The medical director position has been re-evaluated with the input of medical staff, and a new medical director has been appointed.

F8: There has been a history of staff members, especially medical staff, concluding that their opinions are not always valued in the decision making process.

**Response:** The respondent partially disagrees with the finding. The respondent is aware of some communication issues between some staff and previous administrations. Since being appointed two years ago, the Director has worked to increase both the contribution and education of all staff, including medical staff, to the operations of the entire department. Both the attendance of the Director at all medical staff meetings and appointment of a new Medical Director will improve communication with medical staff.

Other staff members have an opportunity to have their opinions expressed, and heard, by both having representatives on the Agents for Change Team (ACT) and by direct contact with the Director and Assistant Directors. The Director is a member of the ACT team and attends the meetings monthly. Additionally, the Director has monthly scheduled “brown bag lunches” throughout the County to meet

with staff and discuss issues and topics of interest.

F9: Procedures for reviewing circumstances surrounding the death of a consumer, under the care of DBH, are inadequate.

**Response:** The respondent agrees with the finding. The department is currently evaluating both new mortality review tools and procedures.

F10: The relationships with all area hospitals, especially with Enloe Hospital, are dysfunctional and have a negative impact on the delivery of mental health services to consumers. This situation does not adequately serve the best interest of the community.

**Response:** The respondent partially disagrees with the finding. The relationship with Enloe Hospital varies from department to department and staff to staff. The administrators of both the department and the hospital have met several times to work toward better relationships and processes; this is a work in process.

F11: The MCT is available only during the normal working day causing long delays in consumer mental status evaluations conducted in EDs. This results in an adverse impact on the hospital EDs ability to respond to the needs of the public.

**Response:** The respondent partially disagrees with the finding. Mental health and substance abuse are both medical conditions which affect the general community. As community hospitals, and under state and federal law, EDs have the responsibility to provide equal treatment for psychiatric emergencies as well as other medical emergencies (HSC 1317.1; CFR 489.24(b)). However, as the specialty mental health service for the County, the respondent recognizes that the department has special skills to assist individuals in psychiatric crisis. The department will continue to develop an improved mechanism to assist EDs in performing their role in psychiatric emergency response.

Recent research completed by the California Hospital Association showed that the statewide average wait time for behavioral health patients in emergency departments was 5.59 hours. The average wait time in the Enloe Hospital Emergency Department for behavioral health patients from 2009 to 2011 was 5 hours, 57 minutes. While such a long wait is far from optimal, Butte County is comparable to other counties.

F12: The problem of long waits in the EDs for individuals brought in under the 5150 code, even for those determined not to need immediate treatment, could be at least partially solved if Emergency Department Physicians were authorized to release such holds.

**Response:** The respondent agrees with the finding.

F13: The acute shortage of drug and alcohol programs within DBH makes it difficult for the Department to meet the demand for such services.

**Response:** The respondent partially disagrees with the finding. The department does not have evidence that the demand for services exceeds the department's target population needs. The department is required to provide substance use disorder services for those individuals who meet medical necessity. The state and federal definition of medical necessity is not currently well defined. However, the department is the "safety net" service provider for individuals who are indigent or Medi-

cal eligible.

The department is not geared nor mandated to provide substance use disorder services for the general population. The department recognizes the increasing need for substance use disorder services in general and is working with both State and local entities to develop additional resources.

F14: A large percentage of those being released from incarceration, either from the Butte County Jail or from a State prison, have been identified as having behavioral health issues. There is a need to improve the procedure for moving these persons into the existing mental health system and for providing adequate treatment.

**Response:** The respondent partially disagrees with the finding. The department recognizes that up to 70% of inmates have some level of behavioral health issues and has implemented a system to refer inmates who meet medical necessity for ongoing services. It should be noted that California Department of Corrections Rehabilitation (CDCR) estimates that only 5% of the State prison population meets criteria for “Enhanced Outpatient Program” services in prison (intensive mental health needs). Through AB 109, Butte County has worked with CDCR to develop transition plans for prisoners exiting state prison to post release community support status.

F15: There are serious issues concerning implementation of policies and procedures pursuant to section 5150. The presently dysfunctional working relationships between DBH and area hospitals, as well as in some cases questionable application of the 5150 provisions by law enforcement, are not serving the best interests of either the community or mental health consumers.

**Response:** The respondent partially disagrees with the finding. The department continues to work with community partners to develop a more coherent and cohesive process for psychiatry emergencies. It is of note, however, that the 5150 regulations are silent in many crucial areas, leading to various interpretations and practices.

F16: The computer system, AVATAR, which will eventually provide many benefits for DBH, the community and consumers, has been slow in implementation. It has not enthusiastically accepted by all staff impacting the Department’s ability to provide and bill for necessary services.

**Response:** The respondent partially disagrees with the finding. While the implementation appears to be slow, Butte County is actually ahead in the overall implementation compared to other counties who have chosen the AVATAR system. As staff has grown more accustomed to the software program, they have become more accepting and cognizant of its value to both consumer care and operational efficiency. The implementation is not impacting the ability to provide and bill for necessary services at this time.

F17: The lack of County in-patient mental health facilities for youth leads to expensive out-of-county placements that do not always meet the needs of the consumers. Alternative programs such as HAP and TBS may be a partial solution to this problem.

**Response:** The respondent agrees with the finding.

F18: Adult consumers are being placed in out-of county facilities when at times the in-county facilities, such as Enloe Behavioral Health, are not fully utilized.

**Response:** The respondent agrees with the finding. Enloe Hospital is a private corporation, and the department cannot dictate how to use its facilities. The department continues to encourage Enloe Hospital to evaluate its business model to include both involuntary admissions and to accept medical payments.

F19: DBH does not effectively utilize resources that can increase public awareness and understanding of its programs in order to encourage and cultivate community support.

**Response:** The respondent partially disagrees with the finding. While more can be done, the department continues to reach out to the community to increase public awareness and understanding. For example, the department has developed better content on the DBH website, published a new service guide, and had several articles printed in local media over the past year. The Director has been on several radio shows to discuss services. A new social media and stigma and discrimination reduction program will be rolled out over the coming year through our regional and statewide prevention and early intervention (PEI) partners.

F20: There is need for expanded facilities for the care of geriatric mental health consumers.

**Response:** The respondent agrees with the finding.

## **RECOMMENDATIONS**

R1: That DBH continue and enhance where possible, programs such as WIN, WRAP® and CIT.

**Response:** The recommendation has been implemented. The department fully supports these programs and continues to enhance them where possible.

R2: That with care and appropriate consideration, DBH continues where possible to use consumers in employment situations and provide them with the support and supervision necessary to make such opportunities successful.

**Response:** The recommendation has been implemented. The department recognizes the importance of providing employment opportunities to consumers and will continue to provide them with support and supervision.

R3: That DBH implement policies that make long term planning a priority. As a part of the planning procedure DBH identify gaps in services, needs for prevention/education, staffing and financial resources.

**Response:** The recommendation has not been partially implemented and will be fully implemented in the future. A strategic planning process is in place. Focus groups have been completed, and the input they gathered has been summarized. The strategic planning consultants have met with the department's management team to develop next steps to finalize both the strategic plan document and the process to introduce it to staff and the community. Workgroups to develop specific goals and interventions in each unit will be held throughout summer and into fall, with expectations of annual review and updates.

R4: That DBH design and implement procedures for conducting a psychological autopsy following the death of a consumer.

**Response:** The recommendation has been partially implemented and will be fully implemented in the future. Some processes, including staff debriefing, have already been implemented. The new procedure will be implemented by the end of the fiscal year.

R5: That DBH improve working relationships with area hospitals, especially with regard to the use of emergency departments by those in mental health crisis situations. That DBH review of the function of the Mobile Crisis Team and expand its availability and response capability.

**Response:** This recommendation has been partially implemented and will be fully implemented in the future. The department recognizes the importance of improving relationships with local hospitals and will continue to work toward improving patient care. A review of the function of the Mobile Crisis Team and expansion of its availability and response capability will be completed by the end of the current fiscal year.

R6: That DBH, together with area hospitals and the Board of Supervisors, develop a policy that will allow emergency department physicians to release 5150 holds.

**Response:** This recommendation has not yet been implemented but will be implemented in the future. A new policy will be completed before December 31, 2012.

R7: That alternatives for those entering the mental health system in crisis be explored, including the possibility of establishing a central intake facility.

**Response:** The recommendation will not be implemented because it is not reasonable. Due to the large geographic nature of Butte County, a centralized intake facility may not benefit consumers in all areas of the County. The fiscal resources to develop multiple 24-hour reception centers are not immediately available. However, through partnerships with both private and public entities, such as area hospitals, other alternatives will be explored.

R8: That as part of an improving relationship between the DBH and Enloe Hospital, opportunities for better use of the Enloe Behavioral Health be explored.

**Response:** This recommendation will not be implemented because it is not reasonable. As noted in finding F18, Enloe Hospital is a private entity and business decisions related to Enloe Behavioral Health are entirely under its purview.

R9: That opportunities for the expansion of drug and alcohol treatment programs be explored

**Response:** This recommendation has been implemented. As noted in finding F13, the department has limited funding to provide substance use disorder services. As the safety net provider for behavioral health services in the county, the department must provide medically necessary access to appropriate treatment for the medical and indigent population. However, the department will continue to work collaboratively with State and local agencies and providers to develop a broader network of care for substance use disorders. This will include primary health care providers, hospitals, and clinics in recognition of substance use disorder as both a medical parity concern and as a recurring, chronic medical condition.

R10: That DBH work with corrections officials and any other involved agencies to establish procedures to insure that those being released from incarceration are connected with out-patient mental health services in a timely manner.

**Response:** This recommendation has been implemented. Procedures and personnel are already in place to assist with transition from jail to behavioral health services. However, this system will be enhanced within the next several months. A Forensic Coordinator position has been approved for the department and will be recruited for and hired within the next several months. The department appreciates the collaboration with the Sheriff's Office to enhance coordination and care for inmates and individuals on alternative custody through AB 109 and looks forward to developing additional procedures and programs to serve this population.

R11: That DBH and all area law enforcement agencies work together so that policies and practices concerning the application Section 5150 are appropriate.

**Response:** The recommendation has been partially implemented and will be fully implemented in the future. The department has been working with law enforcement partners to clarify local processes and look for improvements where possible. Additionally, the department will provide additional training to law enforcement agencies in relation to 5150 processes in addition to other behavioral health issues in the current fiscal year.

R12: That DBH continue efforts to fully implement the AVATAR system, including the training and supervision of all appropriate staff.

**Response:** The recommendation has been implemented. Training and supervision of staff in relation to the use of Avatar are available. Avatar system development continues and will be a multi-year process.

R13: That DBH continue efforts to minimize the need for costly out-of-area placement of youth and adults needing in-patient care. DBH may need to provide the leadership necessary to initiate discussions with nearby counties to establish a facility to provide in-patient treatment for youth.

**Response:** This recommendation has been implemented. Several mechanisms, including the WIN team, additional "patched" board and care funding to bring consumers back to Butte County from out of county intensive placements, and other strategies are being strengthened. Shasta County recently announced that a new PHF will open, which includes up to 6 beds for youth.

R14: That DBH explore, with area hospitals and other entities, the possibility of the establishment of a facility for treatment of geriatric patients with mental health issues.

**Response:** The recommendation will not be implemented because it is not reasonable. Given current funding for behavioral health services, a separate inpatient facility specifically for geriatric patients within Butte County is not within the reach of the department. However, if a private entity makes the determination that they are interested in developing said facility, the department will provide consultation and support for that project.

R15: That DBH publicize its programs to increase public awareness and support for its work and the services it provides. This should include placing meeting notices in newspapers, on appropriate

websites, on community calendars, and utilization of other media as appropriate.

**Response:** The recommendation has been partially implemented and will be fully implemented in the future. A communications workgroup at the County level has developed several new opportunities for traditional and social media outreach. The department will utilize these new opportunities in the current fiscal year. The department will also train several lead staff in media relations in the current fiscal year.

The department has published a new services guide earlier this year, and it is available both in print and digitally. The department website also provides significant information to the public and is reviewed regularly for needed updates. CalMHSA, the joint powers authority tasked with developing Statewide and Regional Prevention and Early Intervention programs, has several contractors who are in the process of rolling out media and social network campaigns to address stigma and discrimination, suicide prevention, and other topics informing the general public about behavioral health issues.

\*Impact of the Mental Healthcare Delivery System on California Emergency Departments

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## **INVESTIGATION INTO THE UTILIZATION OF INVOLUNTARY DETENTION UNDER CALIFORNIA WELFARE AND INSTITUTIONS CODE SECTION 5150**

### **FINDINGS**

F1: It is generally agreed among hospital emergency personnel, behavioral health personnel and law enforcement that approximately 50% of those detained under 5150 are released after a mental status evaluation and are never formally admitted to a designated facility for 72-hour treatment and evaluation. The data to verify this general impression should be collected, retained and used to improve policies and procedures of all involved agencies.

**Response:** The respondent agrees with the finding.

F2: The legal status of person detained under a 5150 hold is often unclear as they move through the system because of the complexity of the various statutes involved.



**Response:** The respondent partially disagrees with the finding. The respondent agrees that the statutes are complex in dealing with involuntary holds. However, the respondent disagrees that an individual's legal status is unclear while on a 5150 hold.

F3: The mental status evaluation of many of those detained under 5150 by law enforcement does not take place in a timely manner. Frequently those detained during the late evening and early morning hours have to wait in a hospital emergency department for an extended period of time before the mental status evaluation is conducted. Hours after law enforcement personnel deliver a detainee to emergency departments, a large percentage of those detained are found by mental health professionals not to meet the criteria for further involuntary detention.

**Response:** The respondent partially disagrees with the finding. The respondent agrees that mental status evaluations of individuals detained by law enforcement do not always occur in a timely manner. However, the average wait time in emergency rooms for evaluation by mental health professionals statewide is 5.59 hours. The average wait time as reported by Enloe Hospital over a three year period was 5 hours and 57 minutes. The respondent agrees a large percentage of those detained (50%) are found by mental health professionals not to meet the criteria for further involuntary detention. However, this does not in any way imply that the initial hold was inappropriate. Rather, it means that the initial crisis has been abated and other plans to meet the individual's psychiatric needs on a voluntary basis may have been developed.

F4: There are no procedures in place for law enforcement officers who detain an individual under 5150 to communicate directly with the mental health professional conducting the mental status evaluation. Communication is limited to brief hand-written comments on a poorly designed application-for-detention form (MH-302).

**Response:** The respondent disagrees with the finding. Law enforcement officers have access to Behavioral Health supervisors' cell phones 24/7 and can call the 24-hour units (PHF and CSU) at any time. The State form (MH-302) may not be altered by local jurisdiction.

F5: Law enforcement lacks capability to video record behavior displayed by 5150 detainees at time of detention, and has limited audio recording capability. Law enforcement's ability and responsibility to complete a video record of detainee behavior and share it with mental health professionals would contribute to a more complete and accurate mental health evaluation of 5150 detainees.

**Response:** The respondent disagrees with the finding. A taped interview could both be inappropriate and humiliating to the individual being assessed and could lead to further escalation of a difficult situation. The individual's current mental status must be evaluated for appropriate level of crisis treatment needs.

F6: The lack of a centralized 24-7 designated facility or other 24-hour facility necessitates law enforcement officers having to take detainees to a hospital emergency department. Holding detainees in an emergency department creates many problems for the hospital, the detained individual and DBH.

**Response:** The respondent partially disagrees with the finding. The respondent disagrees that lack of a centralized 24-7 designated or other 24-hour facility causes law enforcement to take individuals on a psychiatric hold to emergency rooms. Frequently, a medical clearance prior to evaluation for mental status is required. The emergency departments have a duty to serve all emergencies, including psychiatric and substance use disorder emergencies (HSC 1317.1, CFR 489.24(b)). However, the respondent agrees that additional resources to evaluate and formulate appropriate dispositions for individuals in psychiatric and/or substance use disorder related emergencies would assist both the patient and the related agencies.

F7: The lack of coordinated procedures relating to the various statutes involved when a person is detained under 5150 and the other statutes involved creates a continuing state of confusion and results in unnecessarily high costs to county agencies, area hospitals and to the individuals involved.

**Response:** The respondent partially disagrees with the finding. The respondent agrees that the statutes are silent or unclear in many aspects of dealing with involuntary detentions. The respondent disagrees that this creates “a continuing state of confusion.” Processes and procedures are in place for each agency involved with 5150 response.

## **RECOMMENDATIONS**

R1: Law enforcement agencies and DBH should work together with area hospitals to develop coordinated policies and procedures, to be utilized and followed by all organizations involved (law enforcement, DBH, and EDs) in detaining, evaluating, and treating those persons in mental health crisis in accordance with California Welfare and Institutions Code section 5150 et seq., California Health and Safety Code section 1799.111, and Federal EMTALA regulations.

**Response:** This recommendation has not been implemented but will be implemented in the future. The respondent will develop a multi-disciplinary team approach to address coordination by December 31, 2012.

R2: The status of persons detained under Section 5150 needs to be clarified so that at any point in the process it is clear to the detained person, and to the staff, involved exactly what statutes are in play and what exactly is the status of the person. At times, the 72- hour hold may be applicable, at times EMTALA may allow a 24-hour hold and at times, the person may be free to leave if he or she chooses to do so.

**Response:** This recommendation has been implemented. The legal status of an individual under a 5150 hold is clear. There may be overlapping regulations, but until the medical evaluation occurs, which indicates a person no longer meets criteria for a hold, the 5150 applies.

R3: A system should be devised by agencies involved in this process to track the number of 5150 detainees released from an emergency department after a mental status evaluation. Tracking should include, but not be limited to, time and reason for entry, and time and reason for discharge or unauthorized departure. Data should be shared on an ongoing basis with law enforcement, DBH and hospital administrators in order to achieve more effective management of the 5150 process.

**Response:** This recommendation requires further analysis. The respondent will work over the next six months with associated agencies to determine what data may legally be shared, and what data would be useful for planning.

R4: Create one or more 24-hour, 7-day a week, intake facilities where 5150 detainees can receive physical and mental health status evaluations. The existing Psychiatric Health Facility (PHF) could be utilized to accomplish this recommendation.

**Response:** This recommendation requires further analysis. The PHF cannot perform the necessary laboratory work or other medical exams to meet medical clearance requirements. The analysis for both staff and fiscal resources to develop additional 24 hour sites and other options will be performed over the next six months.

R5: Law enforcement, DBH and area hospitals should retain experts to work with them in developing the procedures and protocols for dealing with 5150 holds.

**Response:** This recommendation has not been implemented but will be implemented by June 30, 2013. The respondent will consult with experts to assist with developing new protocols as appropriate.

R6: The existing 5150 application for detention form (MH-302) is inadequate. Involved agencies should computerize and supplement the form to facilitate more effective inter-agency communication.

**Response:** This recommendation will be partly implemented. The MH-302 is a State regulated form and cannot be altered. However, the respondent will research the availability of a computer version of the form to enable more legible and complete documentation by December 31, 2012.

R7: Audio-visual capability for each law enforcement patrol should be acquired and utilized by law enforcement to record behavior of all Section 5150 detainees at time of detention.

**Response:** This recommendation will not be implemented because it is not warranted as stated in the response to F6.

R8: All audio-visual recording of persons detained by law enforcement under the provisions of Section 5150 should be shared with responding DBH mental health evaluators and with appropriate hospital personnel who care for the 5150 detainees.

**Response:** This recommendation will not be implemented because it is not warranted as stated in the response to F6.

R9: CIT training for all law enforcement and emergency response personnel, DBH personnel and hospital personnel who have responsibility for response to and management of 5150 cases should be an ongoing priority.

**Response:** This recommendation will not be implemented because it is not reasonable. The department is willing to provide CIT training to as many first responders as possible, but law enforcement cannot always pull every officer from his/her duties to train them. Recognizing the resource limitations, the CIT training model recommends that up to 30% of law enforcement personnel be trained.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anne Robin", with a stylized flourish extending to the right.

Anne Robin, MFT  
Director