



Board of Supervisors Response to the 2021 San Bernardino County Grand Jury Final Report

Adopted by the Board of Supervisors, March 1, 2022

(NOTE: The original verbatim text from the 2021 Grand Jury Final Report is in *plain italic type*. The Board of Supervisors responses are in **bold non-italic type**.)

SAN BERNARDINO COUNTY SHERIFF AND DEPARTMENT OF BEHAVIORAL HEALTH CONNECTION: IS THE BRIDGE STRONG ENOUGH?

(Note: The Grand Jury's findings and some of its recommendations in this report were not applicable to matters under the purview of the Board of Supervisors and are therefore not included nor addressed in this response.)

RECOMMENDATIONS

R21-2: SBCSD and DBH institute a full 8-hour CIT focused refresher course every 3 – 5 years. To be implemented by June 2022.

This recommendation requires further analysis to determine if a refresher course would be warranted. If so, the Department of Behavioral Health (DBH) and the Sheriff's Department would need to develop curriculum, analyze the appropriate course length and appropriate method of delivery. After conducting additional analysis, DBH and the Sheriff's Department will make a recommendation as to whether, and under what circumstances, refresher courses would be needed and the method of presentation and length of any needed refresher course. This analysis will be completed no later than June 2022.

R21-3: SBCSD and DBH develop virtual mental health/resource updates for deputies leaving the jail and entering patrol assignment. To be implemented by June 2022.

This recommendation has been implemented.

R21-7: SBCSD and DBH to revise and simplify the CIT form to be more deputy user-friendly to facilitate completion by law enforcement in the field. To be implemented by June 2022.

This recommendation is being implemented. DBH and the Sheriff's Department are working collaboratively to review and revise the CIT form template. The CIT Committee will continue to work diligently to simplify and reorganize the CIT form to create a more user-friendly form. The new form will be available to deputies immediately upon completion, with a projected completion date of June 2022.

R21-8: SBCSD and DBH to make the CIT form a duplicate tear-off form with the tear-off portion given to TEST staff at patrol station for immediate follow-up. This alerts and allows immediate notification to station TEST personnel of clients without interrupting original CIT form processing to DBH. In the case of electronic transmission (email), provide a copy to TEST station person immediately. To be implemented immediately.

This recommendation requires further study. DBH will work with the Sheriff's Department to review the concerns raised by the Grand Jury and, if necessary, develop new systems and/or procedures.

R21-9: DBH to assign two or more TEST personnel per station. To be implemented by October 2022.

DBH will make efforts toward implementing this recommendation. DBH has continued to expand the TEST program since its inception and continues to actively pursue co-locating a team of two TEST staff at each Sheriff's station. Staff expansion prioritization is based on geographic need and each station's crisis call volume. Six out of fifteen Sheriff's sites are each currently supported by two TEST staff. Crisis calls in excess of manageable TEST caseload volume are diverted to the DBH Community Crisis Response Team (CCRT).

R21-10: DBH to provide more vehicles for TEST personnel (preferably one per TEST person) at each patrol station. To be implemented by October 2022.

DBH will make efforts toward implementing this recommendation. DBH's goal is to fully equip programs, including TEST, with adequate vehicle availability, as funding permits. Each law enforcement agency (LEA) has an assigned vehicle for TEST use – either a DBH vehicle or a vehicle provided by the host LEA per the agency's formal agreement with DBH. DBH is preparing a department-wide vehicle utilization analysis to ensure all programs are effectively and efficiently equipped with appropriate transportation resources.

R21-11: SBCSD and DBH to develop a formal and accessible system to track recidivism of the mentally ill. To be implemented by June 2022.

This recommendation will be implemented. DBH will collaborate with the Sheriff's Department to identify and/or develop a system to track recidivism and clinical management of persons with behavioral health concerns and frequent law enforcement contact.

R21-12: DBH to develop a collaboration among stakeholders for high desert accessible mentally ill hospital and/or procurement of land for a facility. To be implemented by October 2022.

This recommendation is in practice. DBH continues to seek and pursue opportunities to partner with agencies/organizations interested in developing and/or providing acute psychiatric inpatient services for all ages in this region of San Bernardino County.

A GUARDIAN FOR THE PUBLIC GUARDIANS

FINDINGS

F-1: The California Association of Public Administrator, Public Guardians, and Public Conservators (CAPAGPC) provide mandated training and certification of the Public Guardian staff.

The County agrees with this finding. As the designated certifying body, the California State Association of Public Administrators, Public Guardians and Public Conservators (CA PA|PG|PC) provides a variety of professional training courses for certification required for designated Office of the Public Guardian (OPG) staff. California Probate Code requires certification of Public Guardians (Effective January 1, 2008, Probate Code section 2923), Public Conservators (Effective January 1, 2010, Probate Code section 1456.2) and Public Administrators (Effective January 1, 2010, Probate

Code section 7605). However, Deputy Public Guardian (DPG) staff receive additional training through the County and OPG.

F-2: When asked for caseload numbers, the Public Guardian resisted throughout the investigation. Data and reports that were eventually received, could not be confirmed as accurate because the reporting had no accompanying description or explanation for the variances between reporting events.

The County disagrees with this finding. OPG provided the Grand Jury with caseload data on multiple occasions as requested, which included specific court case numbers, type of cases, and dates of appointment. Per County Counsel, state and federal laws prohibited the release of any personal identifiable information to the Grand Jury.

F-3: There are two models for handling cases; Sole or Individual case management and Functionalized case management.

The County agrees with this finding.

F-4: The Public Guardian projected to the Board of Supervisors a growth rate of (based on +/- 5 years) 12% in LPS cases and 21% in Probate cases. Those projections did not materialize (likely for several reasons including COVID-19 striking the most vulnerable population).

The County agrees with this finding. Projections did not materialize due to the COVID-19 pandemic, as the primary sources for referrals (the Superior Court, skilled nursing facilities and hospitals) were operating on a limited or restricted basis.

F-5: CAPAPGPC requires 40 hours of mandated training and testing for certification. New hires are working towards their CAPAPGPC certification.

The County partially disagrees with this finding. CA PA|PG|PC requires forty (40) hours of mandated training for obtaining certification and maintaining certification. Testing is not required for certification under CA PA|PG|PC regulations.

F-6: The Public Guardian does not have a documented complaint system.

The County disagrees with this finding. Formal complaints may be filed with the Superior Court, County Administrative Office, Clerk of the Board of Supervisors, Board of Supervisors, and/or the Director of the Department of Aging and Adult Services-Public Guardian. Additionally, long-term care residents and hospital patients have the right to file grievances through patient's rights and/or ombudsman programs. A record of all formal complaints received by OPG are logged, investigated, and addressed as appropriate by OPG.

F-7: The Public Guardian training is not effective.

The County disagrees with this finding. OPG staff are provided regular weekly training opportunities, including CA PA|PG|PC and County training, which includes core competencies and proficiencies. Efficacy of training is determined through one-on-one discussions, staff surveys, participation in case study sessions, supervisory review and feedback, as well as on-the-job observation, which demonstrates core competencies and proficiencies.

F-8: The Public Guardian organization chart indicates that the organization is operating without a full contingent of their approved staffing levels.

The County agrees with this finding. At the end of December 2021, OPG operated at 91% of its funded positions (48 of 53 positions). OPG is actively recruiting and interviewing candidates to fill nine (9) vacancies across all classifications.

F-9: Accounting of clients' funds is severely backlogged.

The County partially disagrees with this finding. During the last year, the County has worked diligently to substantially reduce the backlog of accountings, including significant operational changes and working with the Superior Court to develop and implement new procedures to increase efficiencies in the process.

F-10: The Public Guardian operates under the auspices of Department of Aging and Adult Services.

The County partially disagrees with this finding. Amended Ordinance 3936 (2004) appointed and vested authority of the Office of Public Guardian within the Director of the Department of Aging and Adult Services. With this amendment, the Department's official name became Aging and Adult Services-Public Guardian.

F-11: The Public Guardian does not track the status of mandated training.

The County disagrees with this finding. Currently, Work Performance Evaluations (WPEs) include a statement indicating the number of training units completed by OPG staff toward obtaining or maintaining certification. The CA PA|PG|PC statewide computer system was undergoing upgrades during the Grand Jury investigation, which launched in late 2021. The upgraded system now allows OPG Executive Staff to access ad hoc reports, including training transcripts for each member, which are provided to OPG Leadership monthly.

F-12: The Long-Term Care Ombudsman is an unpaid volunteer service, not specifically focused on the Public Guardian clients.

The County partially disagrees with this finding. The San Bernardino County Long-Term Care Ombudsman Program (LTCOP) consists of paid coordinators and unpaid volunteers. LTCOP investigates all complaints within long-term care facilities, including those made against Public Guardians and Public Conservators.

RECOMMENDATIONS

R21-1: The Human Services Department, specifically the Administrative Services Division shall audit the entire Public Guardian organization with specific focus on Conservatees post-death accounting. To be completed by June 30, 2022.

This recommendation will not be implemented. The Administrative Services Division does not have the legal background and training to audit OPG accountings. The accounting process is a multi-step process, which includes comprehensive legal review by multiple agencies, including, but not limited to, sworn officers of the Court, County Counsel, and the Superior Court. OPG has seen sweeping improvement in processing all court accountings, including post-death accounting, with

the implementation of the recently established Terminated/Deceased Unit and the Accounting Unit.

R21-2: The Human Services Department, specifically the Administrative Services Division shall oversee the restructuring of the Public Guardian to a Functional model of case management. To begin by April 1, 2022.

This recommendation is in practice. As a result of Human Resources classification studies conducted in 2019/2020, the Board of Supervisors approved twenty-one (21) positions across multiple classifications, including several new classifications. In 2021, OPG created several new units, including the Terminated/Deceased Unit, Accounting Unit and Clerical Support Unit, which facilitated the transition to and implementation of a “functional” model of case management.

R21-3: If a backlog of any function, accounting or visitation occurs beyond a deficiency of 5% under the Functional model of case management, temporary additional manpower needs to be requested from the Human Services Department (specifically the Administrative Services Division), to resolve the issue. To be implemented immediately upon occurrence.

This recommendation will not be implemented. Human Services Administrative Services Division personnel cannot be utilized to perform OPG tasks because OPG is a General Fund-supported function. Reduction of reported backlog is currently underway through the increased staffing levels recently approved by the Board of Supervisors to implement the “functional” model of case management.

R21-4: The Public Guardian shall begin tracking the California Association of Public Administrator, Public Guardians, and Public Conservators (CAPAPGPC) Association training and continuing education units acquired. To be implemented by April 1, 2022 and continue on a quarterly basis.

This recommendation is in practice. As a result of recent CA PA|PG|PC statewide computer system upgrades, OPG Executive Leadership obtains individual training/certification data on a monthly basis, which is provided to OPG Leadership for monitoring and reporting in employee WPEs.

R21-5: The Public Guardian shall provide training specifically on accounting duties. Training to begin by April 1, 2022.

This recommendation is in practice. OPG provided multiple in-house accounting trainings prior to and following its interaction with the Grand Jury. This practice will continue as part of the training of new employees and as refresher training when deemed necessary for existing staff. Additionally, CA PA|PG|PC has and continues to provide court accounting training.

R21-6: The Public Guardian shall hire additional Deputy Public Guardians and other budgeted support staff. To be fulfilled by June 30, 2022.

This recommendation is in practice. OPG is actively recruiting and interviewing eligible candidates for the nine (9) vacant positions across all classifications.

R21-7: The Public Guardian is directed to implement a Public Guardian specific Ombudsman program to provide advocacy services to conservatees. The Ombudsman shall maintain records of conservatees complaints and resolutions. This program to be implemented immediately.

This recommendation will not be implemented. The U.S. Administration on Aging mandates the Long-Term Care Ombudsman Program to investigate all complaints within long-term care facilities including conservatorships in long-term care facilities, and the State Long-Term Care Ombudsman oversees local programs. Additionally, confidentiality laws protect records pertaining to conservatees, specifically prohibiting disclosure of identifying information.

FOOD PERMITS

FINDINGS

F-1: Currently there are 10,761 food permits in SBC and growing. EHS works with County Code Enforcement to help identify Street and Sidewalk vendors without permits which is prevalent in SBC.

The County agrees with this finding.

F-2: Street and Sidewalk vendors are mainly identified through complaints directed at County Code Enforcement. During the period of January through August 2021, there were 15 complaints received by County Code Enforcement regarding Street and Sidewalk vendors.

The County partially disagrees with this finding. Street and Sidewalk vendors are identified through public complaints submitted to both County Code Enforcement and Environmental Health Services (EHS). During the period of January through August 2021, the total number of public complaints received by County Code Enforcement and EHS regarding Street and Sidewalk vendors was 50 complaints, with 35 complaints received by EHS, and 15 complaints received by County Code Enforcement.

F-3: The Grand Jury observed Street and Sidewalk vendors did not display valid permits nor a grade card. Without permits and a grade card the public is unable to determine the safety of the food served.

The County can neither agree nor disagree with this finding as it cannot speak to what the Grand Jury observed nor is it aware of all criteria the public might use to determine the safety of food. Street and Sidewalk vendors that meet current California Health and Safety Code regulations obtain a valid health permit from EHS and are routinely inspected. Inspection reports are posted online for the public to view. In San Bernardino County, high-risk roaming sidewalk vendors (or high-risk mobile food facilities) are issued a grade card when inspected and are required to have it posted to be clearly visible by the public and to patrons.

RECOMMENDATIONS

R21-1: EHS to develop an online program to help Street and Sidewalk vendors learn how to obtain licenses, permits, and certifications. This service would help to prevent future violations. The online program would ensure their success along with increasing the safety of foods served to the general public. To be implemented by July 1, 2022.

The County's goal is to implement this recommendation by December 31, 2022. EHS and County Code Enforcement currently provide education to street and sidewalk vendors in the field, in

County offices, and via the County website. EHS is committed to the long-term success of street and sidewalk vendors as well as ensuring that food served to the public is safe. It is anticipated that there will be little to no additional cost to develop and implement this specific aspect to the County's online training program as doing so would be within the scope of an existing contract EHS has with a vendor. The addition of a food safety training for sidewalk vending will require EHS to provide the vendor with a scope of work, design, review, and implementation.

R21-2: EHS /County Code Enforcement Department to develop a joint program to identify Street and Sidewalk vendors. This shall include a task force patrolling the county to identify and track Street and Sidewalk vendors through the creation of a central database. To be implemented by July 1, 2022.

This recommendation is in practice. EHS and County Code Enforcement has developed and implemented a tracking mechanism that utilizes mobile phone and GIS applications to not only identify hot spots for street and sidewalk vendors, but also to record information during field observations on vendors, repeat violations, and the intervention provided. This information is currently uploaded to a shareable dashboard that EHS and County Code Enforcement use to develop applicable educational materials and tailor additional interventions.

R21-3: EHS to provide Street and Sidewalk vendors with resource materials (bulletins, flyers, websites) regarding mandated requirements. To be implemented by July 1, 2022.

This recommendation is in practice. Currently, Sidewalk Vending resource materials are available online at <https://wp.sbcounty.gov/dph/programs/ehs/food-facilities/>. EHS will update the website and materials to be more user-friendly and accessible.

SAN BERNARDINO COUNTY LAKES

FINDINGS

F-1: The County Regional Parks Department does not test the fish for mercury contamination.

The County agrees with this finding. However, the County's fish vendor conducts health checks of the fish prior to delivery and monitor the fish daily and weekly, conducting more-intense health checks of their fish, internally and externally.

F-2: The County Regional Parks Department does not require reports or certification of the health of the fish that are stocked into the regional parks' lakes.

The County agrees with this finding. However, the County's fish vendor is required via the County's procurement process to provide the County with healthy and vigorous fish. This is stated in Section 3-Pricing Schedule, A-Specification, e-Condition as follows: "Condition: Fish furnished shall be of the trout species and shall be healthy and vigorous." The same statement is listed within the procurement process for catfish.

F-3: The County Regional Parks Department does not make the public aware of the fish consumption advisories that are available.

The County partially disagrees with this finding. County Regional Parks posts notifications regarding fish consumption when algae levels reach a warning level of caution or above.

F-4: The County Regional Parks Department does not make the public aware of the fish consumption advisories that are available specific to Lake Gregory Regional Park.

The County partially disagrees with this finding. County Regional Parks posts notifications regarding fish consumption when algae levels reach a warning level of caution or above.

F-5: The County Regional Parks Department tests the water in the lakes for harmful algae contamination only three times a year.

The County disagrees with this finding. In addition to testing the water before Memorial Day, the Fourth of July, and Labor Day, Regional Parks also tests the water in our lakes for algae when there are algae blooms or discoloration observed by staff. After the initial testing, Regional Parks tests the lakes every 10 to 14 days until the results are within an acceptable range.

RECOMMENDATIONS

21-1: The Grand Jury recommends that San Bernardino County establish a bi-annual testing program to test the fish for mercury contamination that are available in the lakes at the County Regional Parks that have public fishing lakes. The results of these tests should be posted to the San Bernardino County Regional Parks website. These test results should also be handed out at the Regional Parks when the fishing fee is paid. To be implemented by May 2022.

Will not implement the recommendation as implementation is not necessary. There is no legal requirement for the testing of fish for mercury. The County's fish vendor conducts health checks of the fish prior to delivery and monitor the fish daily and weekly, conducting more-intense health checks of their fish, internally and externally.

21-2: The Grand Jury recommends that San Bernardino County post the following fish consumption advisory, in a prominent location, on the San Bernardino County Regional Parks website (<https://parks.sbcounty.gov/activity/fishing>) and on webpages where San Bernardino County Regional Parks lake fishing information is obtained. The fish consumption advisories to be posted are "Statewide Health Advisory and Guidelines for Eating Fish from California's Lakes and Reservoirs without Site-Specific Advice" and the "Statewide Health Advisory and Guidelines for Eating Fish from Lake Gregory (San Bernardino County)" published by the California Office of Environmental Health Hazard Assessment. To be implemented immediately.

This recommendation has been implemented.

21-3: The Grand Jury recommends that San Bernardino County post, on every informational board at each of the County Regional Parks' Lakes that provide recreational fishing, the - "A GUIDE TO EATING FISH from CALIFORNIA LAKES AND RESERVOIRS" poster, published by the California Office of Environmental Health Hazard Assessment. (Exhibit 1). To be implemented immediately.

This recommendation has been implemented.

21-4: The Grand Jury recommends that San Bernardino County post on every informational board at Lake Gregory the - "A GUIDE TO EATING FISH from LAKE GREGORY (SAN BERNARDINO COUNTY)" poster,

published by the California Office of Environmental Health Hazard Assessment. (Exhibit 2). To be implemented immediately.

This recommendation has been implemented.

21-5: The Grand Jury recommends that San Bernardino County test the water in the lakes of the Regional Parks on a monthly basis, during the months of May through October, for harmful algae bloom. To be implemented by May 2022.

The County will not implement this recommendation as implementation is not necessary. In addition to testing the water before Memorial Day, the Fourth of July, and Labor Day, Regional Parks also tests the water in our lakes for algae when there are algae blooms or discoloration observed by staff. After the initial testing, Regional Parks tests the lakes every 10 to 14 days until the results are within an acceptable range. Regional Parks also works in partnership with the local Water Board to implement our testing program.