

PROPOSITION 63

Mental Health Services Act

INTRODUCTION

The 2009/2010 San Diego County Grand Jury received a complaint alleging that the San Diego County Department of Mental Health Services (MHS) has deficiencies in its organization, including potential conflicts of interest and ethics code violations in its volunteer advisory committees. It was also alleged that MHS administration exploited one of these committees by unduly influencing its advisory vote on Mental Health Services Act funded programs/contracts. These issues prompted a Grand Jury investigation which included a focused audit on the County's administration of its Mental Health Services Act funding.

Proposition 63, known as the Mental Health Services Act (MHSA or the Act), was enacted on January 1, 2005. The MHSA imposes a one percent income tax on personal income in excess of \$1 million in order to increase funding, personnel, and other resources to expand service programs and monitor progress toward statewide goals for serving children, transitional age youth, adults, older adults, and families with mental health needs.

In summary, Proposition 63:

- Provides funds to counties to expand services and to develop innovative programs and integrated service plans for mentally ill children, adults and seniors.
- Requires the State to develop mental health services programs including prevention, early intervention, education and training.
- Creates a commission to approve certain county mental health programs and expenditures.

The MHSA requires that each county mental health program shall, with involvement of stakeholders, prepare and submit a three-year Program and Expenditure Plan for approval by the California Department of Mental Health (DMH).

The Act directs the DMH to establish a program to prevent mental illness from becoming severe and disabling and to reduce negative outcomes such as suicide, incarceration, school failure, unemployment, prolonged suffering, homelessness and removal of children from their homes. The DMH determines the amount of funds available, establishes and communicates the county plan requirements, and allocates the funds among the counties. Distributions are only made to Counties that have an approved plan in place.

The five MHSA core components administered by San Diego County are the following:

- The Community Services and Supports (CSS) are the programs, services, and strategies that are being identified by MHS through its stakeholder process to serve unserved and underserved populations, with an emphasis on eliminating

disparity in access and improving mental health outcomes for racial/ethnic populations and other unserved and underserved populations.

- Workforce Education and Training (WET) targets workforce development programs to remedy the shortage of qualified individuals to provide services to address severe mental illnesses.
- Capital Facilities and Technological Needs (CFTN) addresses the capital infrastructure needed to support implementation of the Community Services and Supports, and the Prevention and Early Intervention programs. It includes funding to improve or replace existing technology systems and for capital projects to meet program infrastructure needs. Although there is one DMH allocation, CFTN is divided into two functions: Capital Facilities, and Technological Needs.
- Prevention and Early Intervention (PEI) supports the design of programs to prevent mental illnesses from becoming severe and disabling, with an emphasis on improving timely access to services for unserved and underserved populations.
- Innovation (INN) is to develop and implement promising practices designed to increase access to services by underserved groups, increase the quality of services, improve outcomes, and to promote interagency collaboration.

The two components administered by the State are the following.

- PEI State Administration is administered by DMH in collaboration with the Mental Health Services Oversight and Accountability Commission (OAC) and the California Mental Health Directors Association (CAMHDA). The County of San Diego agreed to participate in the PEI Statewide Projects and transfer the assigned funds to DMH. These funds are used to administer three PEI Statewide Projects: Suicide Prevention, Student Mental Health Initiative, and Stigma and Discrimination Reduction.
- MHSAs Housing is administered by DMH in collaboration with California Housing Finance Agency (CAHFA). CAHFA administers the real estate aspects of the MHSAs Housing Program for DMH. The program provides funding for the capital costs and operating subsidies to develop permanent supportive housing for persons with serious mental illness who are homeless, or at risk of homelessness, and who meet the MHSAs Housing Program target population criteria.

DMH has allocated about \$481 million to San Diego County. The population of San Diego County is about 8.1% of State population and about 8.1% of MHSAs funding has been allocated to San Diego County. About \$316 million of the funds allocated to San Diego County have been approved. The \$165 million balance of the funds allocated to San Diego County is accounted for in the trust fund, including the \$65 million that is unapproved.

INVESTIGATION

The Grand Jury reviewed:

- Applicable sections of the Welfare and Institutions Code,
- Applicable provisions of the Revenue and Taxation Code, and
- San Diego County Community Program Planning Structure and Processes.

The Grand Jury also obtained and considered numerous other sources of information, including:

- The testimony of professional, auditing and lay witnesses;
- The testimony of appointed officials;
- The testimony of members of advisory councils for the Mental Health Services Act;
- Analyses, websites and other sources of information; and
- Reports of auditors, professional organizations and consultants.

DISCUSSION

Complaint Resolution

The Grand Jury investigated a complaint concerning possible conflicts of interest of members of the three advisory councils for implementation of the MHSA. Some of the volunteer members of these councils are employed by non-profit agencies which are receiving or applying for MHSA funding. The complaint also alleged that these councils merely “rubber stamp” projects favored by MHSA program administrators.

Testimony revealed that conflicts of interest do not exist; advisory council members customarily recuse themselves when the body is considering a project that would benefit their employers. Advisory council members benefit the outreach process by bringing their expertise in mental health programs and do not consider themselves as rubber stamping any proposals brought forth for their consideration.

MHSA Funded Programs

In the course of other investigations, the Grand Jury encountered examples of programs funded in whole or in part by the Mental Health Services Act. Among these are:

- *Homeless in San Diego*: mental health counseling at temporary shelters; outreach for programs for homeless veterans; three approved supportive housing programs.
- *Transitional Age Youth*: wraparound services for children aging out of foster care.
- *Juvenile Detention*: mental health counseling for wards with follow-up after their release to the community.
- *Adult Justice System*: Behavioral Health Court to hear cases dealing with mentally ill people who are accused of committing crimes or have been adjudicated and are awaiting sentencing.

FACTS

Fact: DMH determines the amount of funds available, establishes and communicates Plan requirements, and allocates funds to each County based on MHSA requirements. Distributions are only made to Counties that have an approved Plan in place.

Fact: Through February 2010, about \$5.9 billion of MHSA funding has been allocated among the counties. \$481 million, or 8.1% of that funding, has been allocated to San Diego County.

Fact: The population of San Diego County is about 8.1% of the population of the State.

Fact: About \$381.6 million has been allocated to San Diego County core components; \$65.2 million is unapproved; \$30.9 is designated Prudent Reserve; and the balance of \$4.5 million is shown as interest income.

Fact: The allocations to San Diego County core components are:

- Community Services and Supports (CSS), \$217.1 million;
- Workforce Education and Training (WET), \$17.3 million;
- Capital Facilities and Technological Needs (CFTN), \$37.3 million;
- Prevention and Early Intervention (PEI), \$58.4 million; and
- Innovation (INN), \$11.6 million.

Fact: The San Diego County allocations to State administered funds are:

- MHSA Housing, \$33.1 million; and
- Prevention and Early Intervention (PEI), State Administration, \$6.8 million.

Fact: Although \$3 million was approved for a Technological Needs (TN) project, MHS has submitted no proposals for approval of Capital Facilities (CF). A balance of \$34.4 million, or 92%, of the CFTN allocation is not approved, according to MHS, due to current economic conditions and liability risk of property ownership.

Fact: About \$2.5 million, or 21% of the INN allocation, is not approved.

Fact: About \$24 million, or 73% of the State administered MHSA Housing allocation, is not approved.

Fact: Through FY 2009, \$100.4 million has been spent on the SDMHSAs five core components.

Fact: MHS has used about \$24 million of CSS funding for children, youth, transitional age youth and families through FY 2009.

Fact: MHSA reversion policy specifies that funds allocated to a County which have not been spent for their authorized purpose within three years shall revert to the State.

Fact: A March 2010 audit concluded that there is no current risk of reversion of MHSA funds allocated to San Diego County.

Fact: The March 2010 audit, requested by this Grand Jury, was the first audit of the San Diego County MHSA program since its inception in 2005.

FINDINGS

Finding 01: San Diego County's proportion of MHSA funding is commensurate with its proportion of the population of the State.

Finding 02: The State allocation of \$27.9 million (FY 2010) Prevention & Early Intervention was double counted in Capital Facilities & Technological Needs and in

Prevention & Early Intervention, which inflated the Capital Facilities & Technological Needs allocation amounts in the State MHSA agreement and internal tracking report.

Finding 03: The State approved \$1.5 million (FY 2010) for Innovation was double recorded under Prevention & Early Intervention and Innovation in the State MHSA agreement and the County internal tracking report. Also, State documentation understated the Prevention & Early Intervention service approval amount by \$2.2 million.

Finding 04: As of March 2010, the County has no funding at risk of reversion to the State.

Finding 05: About \$65.2 million, or 17% of the funds allocated to San Diego County are not approved.

Finding 06: MHS has submitted no proposals for approval of Capital Facilities (CF). A balance of \$34.4 million, or 92%, of the CFTN allocation is not approved, according to MHS, due to current economic conditions and liability risk of property ownership.

Finding 07: About \$24 million of the funds allocated to San Diego County for MHSA housing development but administered by the State are not approved.

Finding 08: About \$9.1 million of the MHSA funds allocated to San Diego County for MHSA housing development but administered by the State has been approved; \$18.9 million is in the pre-development pipeline; and \$5 million of other possible projects are under consideration.

Finding 09: Implementation of proposed MHSA projects is often delayed due to the lengthy public outreach process, lack of effective coordination, and labor intensive processes requiring extensive administrative tasks.

RECOMMENDATIONS

The 2009/2010 San Diego County Grand Jury recommends that the Chief Administrative Officer of the County of San Diego direct the Director of the Health and Human Services Agency and the Director of Mental Health Services to:

- 10-47: Proceed now, during the economic downturn, with CFTN projects so as to take advantage of lower costs.**
- 10-48: Enhance the Mental Health Services Act web site to improve transparency of the program. Such enhancements should include:**
- **a listing of all of the County's Proposition 63 funded activities,**
 - **how much funding is allocated to each program,**
 - **the target population for each program,**
 - **a brief summary of each program's function,**

- the duration of each program,
- the name and contact information for each program's lead person, and
- the deliverables for each program.

10-49: Report to the Grand Jury on the resolution of findings #2 and #3 as stated above regarding double counting.

10-50: Advocate with the State Department of Mental Health to streamline the approval process to allow for a timelier implementation of approved projects.

The 2009/2010 San Diego County Grand Jury recommends that the Chief Administrative Officer of the County of San Diego direct the Chief Financial Officer to:

10-51: Audit the Mental Health Services Act at least once in every three year cycle.

COMMENDATIONS

The 2009/2010 San Diego County Grand Jury commends:

- County Mental Health Services for the fact that currently the County has no funding at risk of reversion to the State.
- The new Behavioral Health Court for the creative manner of using the Innovation component of Proposition 63 funding to deal with mentally ill people accused of committing crimes or have been adjudicated and are awaiting sentencing.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding

- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	Recommendations	Date
Chief Administrative Officer, County of San Diego	10-47 through 10-51	8/18/10