

Venters.1.Murray et al. v. County of Santa Barbara et al.

First Monitoring Report of Dr. Homer Venters in Murray et al. v. County of Santa Barbara et al.
(Case No. 2:17-cv-08805-GW-JPR)

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*This report was originally submitted as Final November 17, 2021, but was since amended to respond to Defendant's comments and add COVID-19 content.

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I. Introduction

The Stipulated Judgment and Remedial Plan in Murray et al. v. County of Santa Barbara et al. stems from a lawsuit regarding substandard health services for people held in the Santa Barbara County Jail, a facility of the Santa Barbara County Sheriff’s Office. The Stipulated Judgment and Remedial Plan agreement includes provisions for remedial plans to address deficiencies in several areas, including medical care, mental health care, disability access and accommodation, environmental health and safety and custody operations/segregation. The Stipulated Judgment and Remedial Plan details multiple specific provision that the County shall address within each of these broad categories and includes identification of independent monitors to oversee and report on progress in these areas to assess compliance. This report is focused on initial assessment of the medical care provided in the Santa Barbara County Jail, which involves performance by both the Sheriff’s Department and the health services vendor, Wellpath inc.

II. Methodology

The goal of this report is to review currently available information and provide an initial report on compliance with the various provisions of the Stipulated Judgment and Remedial Plan agreement that relate to medical care. Each of the specific provisions in the Stipulated Judgment and Remedial Plan agreement are presented below, with a compliance rating and report on what data or information were utilized to achieve the rating. Compliance is divided into the categories of substantial compliance, partial compliance, non-compliance and unratable. Substantial compliance represents most or all of the elements of compliance being in place and working as designed. It is important to consider that a single rating of substantial compliance does not mean that an area will no longer be measured, or that such an area may not revert to lower levels of compliance. This is an important consideration whenever large-scale transitions occur with staffing, physical plant or emergency responses, all of which are currently relevant in the Santa Barbara County Jail. If one of the specific domains is not yet implemented or otherwise non-compliant, the overall area will similarly be rated as either partially compliant or non-compliant. If data or other information was unavailable for review, then the area will be reported as unratable, and the initial assessment will occur in the subsequent report.

Information utilized to assess compliance includes review of individual medical records, interviews with County and Wellpath staff and patients, and review of other information provided by the County and Wellpath. In addition, personal observations from my inspection of the facility are included and referenced in several of these areas.

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The facility inspection was conducted on May 18th and 19th 2021. The path of the inspection included a pre-meeting with the leadership of the health vendor (Wellpath) and the Sheriff's Office. The new 376 bed building was not yet opened at this time and was not inspected. The path of the inspection included the intake/receiving area, the main medical clinic with treatment and observation rooms, the South Tank, the East treatment room, the housing units in the East and West sections of the facility, the Northwest section of the facility, D barracks and the West treatment room. Approximately one day was spent inspecting the physical areas of the facility and speaking with detained people, while another day was spend speaking with staff and reviewing records. A total of 15 brief conversations with detained people and 7 in depth interviews were conducted. Facility staff were extremely helpful in ensuring that all areas of the facility were seen and that patient interviews could occur in a confidential manner.

Access to the electronic medical record was granted after the site inspection and the medical records reviewed for this report were reviewed both remotely and with staff during the time of the site inspection. Both defendants and plaintiffs were given draft versions of this report and offered the opportunity to provide comments and responses.

III. Stipulated Judgment and Remedial Plan Monitoring

Each of the following categories is specifically outlined in the Stipulated Judgment and Remedial Plan agreement. For each area of medical care, the elements of the Stipulated Judgment and Remedial Plan agreement are presented, following by the County's most recent status report regarding the area, which is followed by the independent assessment of this report.

A. Private Medical Contract Monitoring by County: partially compliant

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In this area of the Stipulated Judgment and Remedial Plan, the County is required to appoint a County employee or consultant with adequate expertise to provide ongoing monitoring and oversight of the private Jail health care provider contract. In addition, the County's Department of Public Health and Behavioral Wellness shall actively monitor the Jail health care contract with any private health care services provider. The County Status report rates itself as "completed" in both of these areas. Based on my work thus far, and interactions with and review of the supervisory staff who are assigned to these roles, I rate the initial part of this provision as not yet compliant because the County's designated staff reported not reviewing or utilizing the quality reports that are generated by Wellpath. Other elements of this area do appear to be in process, however. If these reports and the other data generated by still-to-be formed quality structures (see below) are reviewed and utilized by the County's relevant staff, then this area will come into compliance.

B. Policies and Procedures: partially compliant

In this area of the Stipulated Judgment and Remedial Plan, the County is required to develop and implement policies and procedures related to the delivery of medical care specific to the County's Jail system and that they have ownership and control over the final policies that are created from this process. The County Status report rates itself as "completed" in this area. After review of current policies and procedures for health services in the Santa Barbara County Jail, I rate this this provision as partially compliant at this time based on the presence of health services policies that are sound, but the lack of any or updated policies in key areas, including screening and care of people with intellectual or developmental disabilities. In addition, although the Stipulated Judgment and Remedial Plan agreement expressly mentions medications (below) regarding asthma inhalers, it is a standard of care in jail settings to provide a much more

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comprehensive approach to chronic health care, including keeping routine medications on one's person. This area of health care will require new policies and procedures.

C. Health Care Records: substantially compliant

In this area of the Stipulated Judgment and Remedial Plan, the County is required to implement an integrated electronic health record system and provide ongoing IT support. The county is also required to implement policies and procedures to ensure that health care staff adequately document health care contacts and treatment intervention information (including patient housing location, type of health care service, and setting where the services were delivered, time of the health care encounter and time the note is generated in the system). The County is further required to ensure that the electronic health record system is modified, maintained, and improved as needed on an ongoing basis and to that they implement and utilize health care forms that the County owns. The County Status report rates itself as "completed" in these areas. I have reviewed numerous charts in the electronic medical record (EMR) being utilized by Wellpath and find their development, implementation, and support of their EMR to be generally strong.

D. Space for Health Care Service Delivery: non-compliant

In this area of the Stipulated Judgment and Remedial Plan, the County is required ensure sufficient and suitable clinical treatment and office space to support health care service delivery. Space for health care services shall provide a therapeutic setting with adequate patient privacy and confidentiality. This provision includes an acknowledgement that remodeling, and reconfigurations of some health care delivery spaces are ongoing and the County reports this area as in process or incomplete. I rate this provision as non-compliant and anticipate that the County

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will be able to come into compliance once the new facility is opened, adequately staffed and the health service delivery areas can be inspected.

E. Intake screening: partially compliant

In this area of the Stipulated Judgment and Remedial Plan, the County is required to develop and implement an Intake Screening Implementation Plan that specifies standards and timelines to ensure that arriving prisoners are promptly screened for urgent health care needs (within minutes of a prisoner's arrival when possible, and in all cases within two hours of arrival), with adequate confidentiality, timely follow-up, and disability accommodations. This plan should include Standards and procedures to ensure Medication Continuity, either through outside verification or on-site physician medication order;

b) Procedures to ensure adequate review of individual health care records maintained by the County or otherwise available as part of the intake process;

c) Infectious disease screening and follow-up;

d) Initial Health Assessment for all incoming prisoners with chronic illnesses;

e) Psychological Evaluation for persons with signs of development disability;

f) Psychological Evaluation for persons with signs and/or histories of mental illness;

Clinical evaluation of persons in need of detoxification with clinical determinations for any use of sobering, safety or isolation cells;

h) Use of a suicide risk assessment tool, with Psychological Evaluation for those with positive findings on the suicide assessment.

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In addition, registered nurses shall perform the intake health screening, and shall receive annual training on intake policies and procedures.

The County rates this area of work as ‘completed’. Based on review of the workflow during my inspection, interviews with detained people and review of intake records via the electronic medical record, I rate the County as partially compliant with this area of monitoring at this time. A strength of this process is the Wellpath policy and practice of quickly identifying patients who require hospital assessment/care before they are safe to enter the facility. My review of this process also reveals that a screening workflow to identify and care for persons with intellectual and developmental disabilities is not yet in place. I also have concerns about confidentiality for persons in several physical locations of the intake workflow. The impending move to a new facility may provide both process improvements and challenges to effective and timely intake screening and care, and this area of compliance will be closely reviewed again.

F. Access to care: partially compliant

In this area of the Stipulated Judgment and Remedial Plan, the County is required to “develop and implement a Health Care Implementation Plan to provide all necessary levels of care for prisoners with health care needs and to ensure that they receive timely treatment appropriate to the acuity of their conditions, consistent with established standards of care and clear timelines for routine, urgent and emergent cases.” Specific areas of requirement include timelines and process requirements for non-emergent health care requests and dental care. In addition, the Stipulated Judgment and Remedial Plan requires that communications and access occur for non-English speaking patients. This area of the Stipulated Judgment and Remedial Plan also includes a requirement that patients not be limited to a single health issue on a visit and that sufficient escort officers be present for health services. I spoke with detained people about their

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experiences, interviewed staff and reviewed medical records regarding this area of health services. The broad the elements of this category, namely the access to scheduled encounters for medical and dental care appear generally compliant, but staff reported some difficulty in security officer escort of patients for health encounter production, although I was unable to quantify this concern or link to deficiencies in individual medical records. I do have concerns about the use of restrictive housing for people with mental health problems, not only as a standalone inadequacy of mental health care, but as a barrier to basic care for physical health problems. While another monitor in focused on this area of care and conditions, I plan to surveil how this practice impacts physical health and access to health services. Use of restrictive housing often limits or impairs access to care for asthma, diabetes, heart disease and other chronic health problems and can pose new risks for worsening of these and other physical health problems. This practice is also a strong driver of self-harm and injury, which may be seen as a manifestation of the psychological stress of isolation, but results in physical injury and in some cases, disability and death. The county is working to reduce this practice, but these efforts are incomplete at this time, especially for detained women. Based on my review of health encounters, as well as discussions with staff, I rate this area as partially compliant at this time.

G. Chronic care: partially compliant

This area of monitoring requires that the County create a program to identify and treat chronic health problems “for the management of chronic conditions, including but not limited to diabetes mellitus, asthma and other respiratory conditions, hypertension, HIV, and hepatitis C.” A second aspect of this area also requires the development of individual treatment plans. The County rates itself as “completed” for the development of the overall program and disease protocols but not yet complete for creation and implementation of individual treatment plans. Based on review of

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medical records, speaking with detained people who have chronic health problems, and interviews with staff, I rate this as partially compliant. In order to come into full compliance, the County will need to both implement individual treatment plans and also broaden their approach to chronic care to include making evidence-based treatment available for people with substance use disorders.

H. Pharmacy Services: partially compliant

This area of the Stipulated Judgment and Remedial Plan requires that the County implement a system to identify and meet medication needs of patients from the time of entry through release. This area also requires implementation of a keep on person program for asthma inhalers and ensure proper and safe storage and dispensing of medications, access to medications when people are in court and otherwise in transit, and that adequate staff be present to ensure timely medication administration. The County reports all of these areas as “completed”. Review of medication records of patients, interviews with staff and detained people also lead to a rating of partially compliant at this time. I am concerned that people in restrictive housing may have more limited medication access, including access to asthma inhalers. In addition, I am concerned that the County had implemented such a limited ‘keep on person’ program, as the correctional standard in jails around the nation is to allow patients to keep a week or more of their medications with them, both reducing movement of people and nursing staff demands. The County has implemented sound practices for identifying missed doses of medications and other medication variances, and I anticipate that the resolution of their efforts to minimize restrictive housing, along with the move to a new facility will help to achieve substantial compliance in this area.

I. Transgender and Gender Nonconforming Health Care: unrated

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This area of monitoring requires that the County “shall treat transgender prisoners based upon an individualized assessment of the patient’s health care and related needs, consistent with relevant legal requirements.” The County rates this work as “completed” based on the presence of their relevant policy. This area of monitoring was not rated.

J. Drug/Alcohol Withdrawal, partially compliant

This area of monitoring requires that the County develop “drug/alcohol withdrawal policies and procedures that include specific guidelines as to the frequency and documentation of patient assessment.” Review of the medical records of people who received this care, interviews with patients and staff revealed that the County and Wellpath have a strong practice of early detection of withdrawal and diversion into a treatment pathway, without reliance on prolonged periods of isolation in ‘sobering cells’ or other non-therapeutic pathways. While I find the practices to initially detect patients with these problems to be sound, I am concerned both about the length of time a person may spend locked in a cell to receive complex care, as well as the confidentiality and adequacy of those spaces for delivery of that care. The medical complexity of these cases warrants close supervision that is made more difficult, not less, by being locked in a cell. The County rates itself as “completed” for this task and I find the rating to be partially compliant.

K. Utilization Management: unrated

This area of monitoring includes three specific requirements relating to the need for clinical input, patient communication and the opportunity for patient appeals in decision making about patient care. The County reported all three areas being “completed”. This area is unrated and will be evaluated in the next report.

L. Review of Inmate Deaths: unrated

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This area of the Stipulated Judgment and Remedial Plan requires that the County conduct an adequate and timely review of any death of a detained person within 30 days. The County rates this area as “completed” but I have not reviewed the mortality reports of the County at this time despite requesting these records. Based on the reviews of suicides that I have read, I am concerned that deaths have not been adequately reviewed to assess 1) whether the clinical standard of care was met in each case, and 2) whether the death was jail-attributable (whether conditions, care or other factors inside the detention setting significantly contributed to the death). This area will be reviewed in the next report.

M. Discharge Planning, non-compliant

This area of compliance requires that the County create an “in-custody discharge/reentry planning program, described in a written policy, with emphasis on prisoners who suffer from chronic mental health and medical conditions, including addiction.” The County reports being in the process of implementing this program and I rate this as non-compliant.

N. Quality Management: partially compliant

This area of health services requires that the County implement a quality management program and establish a continuous quality improvement unit to “develop tracking mechanisms and to monitor the timeliness and effectiveness of care, to be reviewed at least quarterly.” The County reports having completed the first part of this requirement and being in the process of assembling the quality improvement unit. Based on my review of the quality efforts of the County and the vendor staff from Wellpath, I rate this area as partially compliant. Several important metrics that reflect health service quality are monitored by the health vendor. Once the County and Wellpath

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implement the efforts they report intending to develop (including the quality improvement unit), I anticipate this area will be close to substantial compliance.

O. Other areas of review

Given the significant, recent COVID-19 outbreak in the facility, I spoke with the County about their policies and procedures for responding to this unique threat to health. I also reviewed medical records of people who contracted COVID-19 while detained. This review indicates that the County and Wellpath are following basic CDC guidance regarding identification of new cases of COVID-19, including the testing of all newly detained people, those placed into quarantine for exposure to someone with COVID-19 and also following CDC guidance for medical isolation of people with known or suspected COVID-19. One clinical concern I have shared with the County and Wellpath staff relates to the need for lower thresholds for physician assessment of high-risk patients. Currently, all patients with COVID-19 are monitored twice daily by nursing staff and when abnormal vital signs are detected, nursing staff are instructed to notify a provider (physician or mid-level). This threshold should be lower for patients who are known to be at elevated risk of serious illness or death from COVID-19. The rates of vaccination reported by the County are well below what is needed and fall short of rates for vaccination of both staff and detained people and I am hopeful that recent efforts to increase and track vaccination rates among both groups will be more effective. Several discussion with the County in January 2022 led several specific recommendations, contained below in Appendix 1.

Next Steps

The compliance assessments in this report reflect the information that was available for evaluation. In the coming months, I plan to coordinate with the County and the other monitors to

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develop audit tools that can clearly and transparently replicate our initial assessments, as well as incorporate data that is not yet available for ongoing monitoring. Through development of clear expectations about what information will be utilized in each area of monitoring, the County and their health vendor can take steps to both come into compliance and create a sustainable and transparent approach to ensuring the quality and access of health services. While I intend to conduct a yearly assessment of compliance, I anticipate for more than once yearly inspections, including an inspection in the coming months to review the clinical spaces and care in the new facility.

Appendix 1.

.Recommendations for the Santa Barbara County Jail COVID-19 response

Purpose: These recommendations are designed to assist during a time of overwhelming COVID-19 outbreak and short staffing in the Santa Barbara County Jail. These recommendations represent a list of tasks that can be immediately implemented and are designed to limit the likelihood of preventable morbidity and mortality during the current COVID-19 outbreak.

Discussions with the facility leadership made clear that they have implemented many important interventions and are extremely dedicated to preventing illness and loss of life due to the outbreak. But is also clear that facility leadership lack the resources to implement important and basic COVID-19 measures. The current testing and vaccination efforts reflect important and life-saving interventions, and the recommendations below are meant to supplement and support that critical work. Interim steps that require minimal resources but can reduce mortality are italicized below.

1. Develop a response threshold with County partners regarding staffing and incarceration census. There should be a clear staffing/detainee ratio below which, additional staff (security and health) will be added and/or fewer people will be detained. This threshold should reflect the additional work required to respond to COVID-19, physical space required for medical isolation and quarantine and the loss of inmate work crews as housing areas fall under quarantine. Multiple correctional settings are moving to decreases their daily census and add staff via national guard and other non-traditional sources of correctional and health staff.
2. Identify all high risk detained people and staff. Because a subset of people in detention are known to be at elevated risk of death from COVID-19, and because their identity is

known, health staff should run a weekly list of people who meet these CDC criteria and use this information in the following manner:

a. Review vaccination status of all high-risk patients and for any who remain unvaccinated or incompletely vaccinated (lacking but eligible for a booster), conduct an in-person counseling encounter to answer questions or address concerns to promote vaccination. Many high-risk people remain unvaccinated because they have questions or concerns that are not addressed in the large-scale housing area vaccination drives and a one-on-one session can improve their acceptance, significantly decreasing risk of death or illness from COVID-19. It is likely that more than once weekly vaccination clinics will be required in the short term.

b. Conduct a daily vital signs and symptom check (by nursing staff) of each high-risk person in quarantine, including new admission and exposure quarantine. Detecting symptoms of COVID-19 in quarantine settings is an essential component of basic CDC guidelines.¹ *Until this is feasible with additional nursing staff, two possible interim steps with existing staff are to 1) give the nursing staff conducting COVID-19 testing in quarantine areas the same list of high-risk patients in each housing area they will test in, and conduct a wellness check for those people and/or 2) give the same list to security staff to conduct a daily wellness check with a referral to medical for anyone with new symptoms.*

c. Modify the nursing assessments being conducted for patients with suspected or known COVID-19 to include whether the person is high-risk and modify the action steps (notify providers, consider hospital transfer, etc.) to reflect a lower

¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/quarantine-duration-correctional-facilities.html>

threshold for these high-risk patients. As the number of symptomatic patients grows, one useful tool for medical providers is a risk assessment tool that goes beyond simply yes/no for high-risk status and stratifies mortality risk based on having multiple risk factors. The Veteran's Administration has developed such a tool for estimation of 30-day mortality risk from COVID-19 infection.² *Until a different workflow can be established for high risk patients, an alert can be added to their medical records so that nursing staff are at least aware of each high-risk patient with COVID-19 they are assessing.*

d. Lists of high-risk patients will also become essential in coming weeks as the facility seeks to estimate the potential need for the just-approved oral treatment Paxlovid and other therapies.

3. Symptom checks and testing for detainee work crews. Anyone who works outside their housing area should be asked about symptoms of COVID-19 before every shift and referred for medical assessment when they respond positively and receive weekly COVID-19 testing. Work crews of detained people have been part of the spread of COVID-19 since the outset of the pandemic and implementing screening and testing for paid staff without similar attention to the many detained workers who move throughout the facilities is a key error. *As an interim step, kitchen, laundry and medical clinic workers should be prioritized for daily symptom checks and weekly COVID-19 testing.*

4. Sick call requests. Both paper and kiosk sick call requests should be reviewed at the end of every day for expedited response to any potential COVID-19 related symptoms.

² <https://www.mdcalc.com/veterans-health-administration-covid-19-vaco-index-covid-19-mortality>

5. Masks. When two or more cases have been detected among inmates or staff in a 14-day period, KN95 masks should be provided for all staff and incarcerated people, as a replacement from cloth masks. *As an interim step, any of the detained people and staff who are identified as high-risk should be prioritized for receiving KN95 masks with regular replacements.*

6. Discussions with the facility team make clear that additional resources and staff are immediately required to meet the most basic elements of responding to this outbreak. Additional nursing staff are required to conduct daily symptom checks of people in quarantine, assessments of people in medical isolation and conduct expedited sick call reviews. Administrative staff are urgently required to conduct a check of vaccination status for every person admitted to the jail within 24 hours, update and circulate lists of high-risk patients and coordinate vaccination and testing efforts. For planned transfers to the new facility, pre-transfer testing is also advisable. Additional mental health staffing is also required to conduct mental health rounds as the number and duration of people locked into individual cells or unable to communicate with loved ones increases. This work cannot simply be conducted in place of chronic care, medication administration, sick call and other routine health services, otherwise preventable morbidity and mortality may occur.