

File No. 200951

Committee Item No. 3

Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date Oct. 19, 2020

Board of Supervisors Meeting

Date November 3, 2020

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	Memorandum of Understanding (MOU)
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Form 126 - Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Form 700
<input type="checkbox"/>	<input type="checkbox"/>	Vacancy Notice
<input type="checkbox"/>	<input type="checkbox"/>	Information Sheet
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

Completed by: Victor Young Date Oct 15, 2020

Completed by: _____ Date _____

[Department of Public Health - Providing Staff for the Behavioral Health Commission]

Ordinance amending the Administrative Code to require the Department of Public Health to provide administrative staff to support the Behavioral Health Commission; to expand the membership criteria to conform to state law; and to reset all Commission member terms as of January 1, 2021, to be staggered so that no more than one-third of the members' terms expire at one time.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Administrative Code is hereby amended by revising Sections 15.12 and 15.13, and adding Section 15.12.5, to read as follows:

SEC. 15.12. BEHAVIORAL HEALTH COMMISSION – COMPOSITION AND APPOINTMENT OF MEMBERS.

(a) There is hereby established a mental health board pursuant to the requirements of California Welfare and Institutions Code Sections 5604 et seq., to be known as the Behavioral Health Commission ("Commission").

(b) The Commission shall consist of 17 members. Each member of the Board of Supervisors shall appoint a member of the Commission. The Board of Supervisors shall

1 appoint the remaining six members, one of whom shall be a member of the Board of
2 Supervisors.

3 (c) As required by California Welfare and Institutions Code Section 5604, at least
4 nine members of the Commission shall be consumers or the parents, spouses, siblings, or
5 adult children of consumers, with at least four members being consumers and at least four
6 other members being family of consumers. For purposes of this subsection (c), "family"
7 includes domestic partners and significant others. For purposes of this subsection, a
8 "consumer" is a person who has received mental health and/or substance use services in San
9 Francisco from any program operated or funded by the City, from a State hospital, or from any
10 public or private nonprofit mental health agency. The Board of Supervisors member position
11 shall not count in determining whether the "consumer" and "family of consumer" requirements
12 of this subsection are met.

13 (d) In addition to the requirements of subsection (c), one member of the
14 Commission shall be a child advocate (a family member or consumer advocate for minors
15 who use mental health services); one member shall be an older adult advocate (a family
16 member or consumer advocate for persons 60 years of age or older who use mental health
17 services); and two members shall be from the following professions: psychiatry, psychology,
18 mental health social work, nursing with a specialty in mental health, marriage and family
19 counseling, psychiatric technology, or administrator of a hospital providing mental health
20 services or of a community mental health facility.

21 (e) Any positions on the Commission not allocated to specific types of members
22 may be filled by persons with experience and knowledge of the mental health system
23 representing the public interest, which may include, but need not be limited to, people who engage
24 with individuals living with mental illness in the course of daily operations, such as representatives of
25 county offices of education, large and small businesses, hospitals, hospital districts, physicians

1 practicing in emergency departments, city police chiefs, county sheriffs, and community and nonprofit
2 service providers.

3 (f) The Commission membership shall reflect the ethnic diversity of the client
4 population in the City. The composition of the Commission shall, to the extent feasible,
5 represent the demographics of the City as a whole. Except as provided in subsection (g) no
6 member of the Commission or ~~his or her~~ the member's spouse shall be a full-time or part-time
7 County employee of a County mental health service, an employee of the State Department of
8 Health Care Services, or an employee of, or a paid member of the governing body of, a
9 mental health contract agency.

10 (g) A consumer who has obtained employment with an employer described in
11 subsection (f), and who holds a position in which the consumer has no interest, influence, or
12 authority over any financial or contractual matter concerning the employer may be appointed
13 to the Commission. Such a member shall not participate in any matter concerning the member's
14 employer if prohibited by state or local law. ~~any financial or contractual issue concerning his or her~~
15 ~~employer that may come before the Commission.~~

16 (h) References in the Administrative Code or ~~other~~ any other part of the Municipal
17 Code, or any City ordinance to the Advisory Board of the Community Mental Health Services,
18 or to the San Francisco Mental Health Board shall be deemed references to the Commission.

19
20 **SEC. 15.12.5 BEHAVIORAL HEALTH COMMISSION – STAFFING.**

21 The Department shall provide administrative staff to the Behavioral Health Commission with
22 Department employees.

23
24 **SEC. 15.13. BEHAVIORAL HEALTH COMMISSION – TERMS OF REMOVAL.**

1 (a) Except for the Board of Supervisors member, the term of each member of the
2 Behavioral Health Commission ("Commission") shall be ~~for~~ three years. All member terms shall
3 be reset to begin at noon on January 1, 2021. Thereafter, members' terms shall be staggered as
4 determined by the Clerk of the Board of Supervisors by no later than December 31, 2020. The Clerk of
5 the Board of Supervisors shall determine by lot the initial terms for all 17 seats. Five seats shall have
6 an initial one-year term expiring January 1, 2022, six seats shall have an initial two-year term expiring
7 January 1, 2023, and six seats shall have three-year terms expiring January 1, 2024. After the initial
8 terms expire, subsequent terms for all seats shall be three years. Nothing shall preclude any member
9 from resigning, and the term of office of any member may be terminated for the reasons and subject to
10 the procedures set forth in this Section 15.13.

11 (b) No member shall serve more than two consecutive full terms. A member shall be
12 deemed to have served a full term only if ~~he or she~~ the member serves at least ~~18 months~~ half
13 of a full term. For the purpose of this term limit, the terms ending January 1, 2021, and the initial
14 terms beginning January 1, 2021 shall count as full terms. Provided however, that a member
15 whose term ends January 1, 2021, and who has served for six months or less, will not be
16 deemed to have served a full term under this subsection (b).

17 (c) The term of office of a member appointed by an individual Board of Supervisors
18 member is not affected by the Board of Supervisors member no longer continuing in that
19 office.

20 (d) A member shall be removed from office if ~~he or she~~ the member is absent for
21 four meetings in one year, unless the Commission grants that person a leave of absence. The
22 Commission may grant leaves of absence for one or more meetings. Upon determining that a
23 member has been absent for four meetings in a 12-month period and that no leave of
24 absence had been granted for these meetings, the Commission shall provide written
25

1 notification to the Board of Supervisors. Upon receipt of the notification, the position shall be
2 deemed vacant.

3 (e) The Commission may recommend to the Board of Supervisors that a member be
4 removed from the Commission on the grounds that the member's conduct is seriously
5 disruptive of the functioning of the Commission. Once the Commission makes such a
6 recommendation, the Board of Supervisors may remove a member from the Commission if it
7 determines that the member's conduct is seriously disruptive of the functioning of the
8 Commission.

9
10 Section 2. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: /s/
11 VIRGINIA DARIO ELIZONDO
Deputy City Attorney

12 n:\legana\as2020\2100037\01486122.docx
13
14
15
16
17
18
19
20
21
22
23
24
25

LEGISLATIVE DIGEST
(10/19/20)

[Administrative Code - Department of Public Health - Providing Staff for the Behavioral Health Commission]

Ordinance amending the Administrative Code to require the Department of Public Health to provide administrative staff to support the Behavioral Health Commission; to expand the membership criteria to conform to state law; and to reset all Commission member terms as of January 1, 2021, to be staggered so that no more than one-third of the members' terms expire at one time.

Existing Law

The Behavioral Health Commission ("BHC"), formerly named the Mental Health Board, was created in 1993 pursuant to California Welfare & Institutions Code §§ 5604, et seq., to review and evaluate the community's mental health needs, services, facilities, and special problems, and to advise the Director of Health, the Director of Community Behavioral Health Services, the Health Commission and the Board of Supervisors on mental health programs. Commissioners serve for a three-year term.

Amendments to Current Law

The amendment would require the Department of Public Health to provide support staff to the BHC with a department employee, rather than through a contractor. The amendment resets the terms of all Commissioners beginning January 1, 2021, and staggering those terms so only one-third of the Commissioners' terms expire at a time. The amendment adds recommended categories of individuals to be considered for BHC membership in conformance with state law.

n:\legana\as2020\2100037\01466689.docx

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

MEMORANDUM

Date: October 16, 2020

To: *AC* The Honorable Members, Board of Supervisors

From: Angela Calvillo, Clerk of the Board

Subject: Revisions to the Behavioral Health Commission (File No. 200951)

Board of Supervisors Rules of Order 2.21 establishes certain criteria that must be included in legislation creating and establishing, or reauthorizing, new bodies (boards/commissions/task forces/advisory bodies) and requires the Clerk of the Board to advise the Board on certain matters. In order to fulfill these requirements, the following is provided:

File No. 200951 Administrative Code - Department of Public Health - Providing Staff for the Behavioral Health Commission

- Does a current body address the same or similar subject matter?

No. The Mental Health Board was renamed to this Behavioral Health Commission.

- Language requiring the body to meet at least once every four months

No. Suggest adding the following ““The Behavioral Health Commission shall hold a meeting not less than once every month.”

- Language indicating members serve at the pleasure of the appointing authority

No. This Commission has special provisions that also allows the Commission to recommend removal of members, pursuant to Section 15.13(e): “The Commission may recommend to the Board of Supervisors that a member be removed from the Commission on the grounds that the member’s conduct is seriously disruptive of the functioning of the Commission. Once the Commission makes such a recommendation, the Board of Supervisors may remove a member



from the Commission if it determines that the member's conduct is seriously disruptive of the functioning of the Commission."

- Language establishing attendance requirements

Existing language on Page 4, lines 15-20, Section 15.13 (d), entitled "Behavioral Health Commission – terms of Removal" states "A member shall be removed from office if he or she is absent for four meetings in one year, unless the Commission grants that person a leave of absence. The Commission may grant leaves of absence for one or more meetings. Upon determining that a member has been absent for four meetings in a 12-month period and that no leave of absence had been granted for these meetings, the Commission shall provide written notification to the Board of Supervisors. Upon receipt of the notification, the position shall be deemed vacant.

- Number of seats and qualifications

The Ordinance proposes to amend the Commission's current membership qualifications to state that any positions on the Commission, not allocated to specific types of members, may be filled by persons with experience and knowledge of the mental health system representing the public interest, which may include, but need not be limited to, people who engage with individuals living with mental illness in the course of daily operations, such as representatives of county offices of education, large and small businesses, hospitals, hospital districts, physicians practicing in emergency departments, city police chiefs, county sheriffs, and community and nonprofit service providers.

The California Welfare and Institutions Code, Section 5604, requires:

- > At least nine (9) members shall be Consumers or the parents, spouses, siblings or adult children of Consumers;*
- > At least four (4) members shall be Consumers;*
- > At least four (4) members shall be family of Consumers.*
- > One (1) member shall be a child advocate (a family member or Consumer advocate for minors who use mental health services);*
- > One (1) member shall be an older adult advocate (a family member or Consumer advocate for persons 60 years of age or older who use mental health services); and*
- > Two (2) members shall be from the following professions: psychiatry, psychology, mental health social work, nursing with a specialty in mental health, marriage and family counseling, psychiatric technology, or administrator of a hospital providing mental health services or of a community mental health facility.*



NOTE: A "Consumer" is a person who has received mental health and/or substance use services in San Francisco from any program operated or funded by the City and County, from a State hospital, or from any public or private nonprofit mental health agency. The Board of Supervisors member position shall not count in determining whether the Consumer and family of Consumer requirements of this section are met.

Any positions not allocated to specific types of members may be filled by persons with experience and knowledge of the mental health system representing the public interest.

- Term limits (i.e., commencement date? staggered terms?)

Terms shall be adjusted as follows:

All member terms shall be reset to begin at noon on January 1, 2021. Thereafter, members' terms shall be staggered as determined by the Clerk of the Board of Supervisors by no later than December 31, 2020. The Clerk of the Board of Supervisors shall determine by lot the initial terms for all 17 seats. Five seats shall have an initial one-year term expiring January 1, 2022, six seats shall have an initial two-year term expiring January 1, 2023, and six seats shall have three-year terms expiring January 1, 2024. After the initial terms expire, subsequent terms for all seats shall be three years.

No member shall serve more than two consecutive full terms. A member shall be deemed to have served a full term only if he or she serves at least half of a full term. For the purpose of this term limit, the terms ending January 1, 2021 and the initial terms beginning January 1, 2021 shall count as full terms.

- Administering department

The Department of Public Health provides administrative support to the Commission.

- Reporting requirements

The Commission shall review and evaluate the City and County's behavioral health needs, services, facilities and special problems and other duties as stated in Administrative Code, Section 15.14.

Reports: An Annual Report shall be submitted to the Board of Supervisors on the needs and performance of the City and County's mental health system.



- **Sunset date**

The Behavior Health Commission does not currently have a sunset date nor will it be suggested since this Commission is also governed and effectuated by California Welfare and Institutions Code, Section 5604 et seq.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health Helynnna
Brooke, Behavioral Health Commission

FROM: Victor Young, Assistant Clerk
Rules Committee

A handwritten signature in cursive script that reads "Victor Young".

DATE: August 27, 2020
SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation on August 18, 2020:

File No. 200951

Ordinance amending the Administrative Code to require the Department of Public Health to provide administrative staff to support the Behavioral Health Commission; to expand the membership criteria to conform to state law; and to reset all Commission member terms as of January 1, 2021, to be staggered so that no more than one-third of the members' terms expire at one time.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

c: Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health

From: [BOS Legislation, \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#); [Li Lovett](#)
Cc: [Herzstein, Daniel \(BOS\)](#); [Young, Victor \(BOS\)](#)
Subject: RE: Sup. Mar co-sponsoring #200951
Date: Tuesday, August 25, 2020 9:24:28 AM
Attachments: [image001.png](#)

Sorry. Actually adding Victor to the email would be helpful. Thank you!

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
jocelyn.wong@sfgov.org | www.sfbos.org

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Tuesday, August 25, 2020 9:24 AM
To: Li Lovett <d4lilovett@gmail.com>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Herzstein, Daniel (BOS) <daniel.herzstein@sfgov.org>
Subject: RE: Sup. Mar co-sponsoring #200951

Looping in Rules Committee Clerk, Victor Young, for processing.

Thank you,

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
jocelyn.wong@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of

the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: Li Lovett <d4lilovett@gmail.com>
Sent: Monday, August 24, 2020 7:05 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Herzstein, Daniel (BOS) <daniel.herzstein@sfgov.org>
Subject: Sup. Mar co-sponsoring #200951

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

BOS Legislation staff--

Please add Supervisor Mar as a Co-sponsor to file #200951 [Department of Public Health - Providing Staff for Behavioral Health Commission].

I am sending from this email until li.lovett@sfgov.org is active, as I just started in the D4 Supervisor's office.

Thanks,

Li Lovett

Li Miao Lovett
Legislative Aide,
Office of D4 Supervisor Gordon Mar

From: [BOS Legislation, \(BOS\)](#)
To: [Angulo, Sunny \(BOS\)](#); [BOS Legislation, \(BOS\)](#); [Young, Victor \(BOS\)](#)
Cc: [Peskin, Aaron \(BOS\)](#); [Stefani, Catherine \(BOS\)](#); [Mullan, Andrew \(BOS\)](#)
Subject: RE: PESKIN - Co-sponsor BHC legislation - File No 200951
Date: Tuesday, October 6, 2020 3:58:58 PM
Attachments: [image001.png](#)

Thank you Sunny. Looping in Victor Young, committee clerk for Rules Committee for processing.

Lisa Lew

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Sent: Tuesday, October 6, 2020 3:48 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Mullan, Andrew (BOS) <andrew.mullan@sfgov.org>
Subject: PESKIN - Co-sponsor BHC legislation - File No 200951

Hello,

Please add Supervisor Peskin as co-sponsor to File No. 200951, Administrative Code - Department of Public Health - Providing Staff for the Behavioral Health Commission.

Thank you!

Best,
Sunny

From: [Nancy Wuerfel](#)
To: [Stefani, Catherine \(BOS\)](#); [Mar, Gordon \(BOS\)](#); [Ronen, Hillary](#); [Peskin, Aaron \(BOS\)](#)
Cc: [Mullan, Andrew \(BOS\)](#); [Young, Victor \(BOS\)](#); [Board of Supervisors, \(BOS\)](#)
Subject: Support for Ordinance 200951 RE: Behavioral Health Commission
Date: Thursday, October 15, 2020 1:27:39 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Supervisors,

I enthusiastically support Ordinance file # 200951 to amend the Administrative Code to require the Department of Public Health to provide administrative staff to support the Behavioral Health Commission, along with other code changes. Ever since I read the article in the June 5, 2020 SF Examiner about Supervisor Stefani's resignation from the BHC after calling for an investigation of alleged financial mismanagement, I have supported her efforts to address her concerns through amending the Administrative Code. Indeed, I contacted her with additional concerns that I had about a non-profit corporation staffing a City commission and also receiving City funds for that service that are kept in a private bank account which has never been audited. I look forward to learning the results of that investigation to see if additional legislation is necessary to correct loopholes in contracting with a non-profit.

Sincerely,

Nancy Wuerfel

Arguments opposing the proposed legislation, File #200951

Amending the Administrative Code to require the Department of Public Health to provide administrative staff to support the Behavioral Health Commission; to expand the membership criteria to conform to state law; and to reset all Commission member terms as of January 1, 2021, to be staggered so that no more than one-third of the members' terms expire at one time.

The legislation as written contains several errors and misunderstanding about the Welfare and Institutions Code, Section 5604.

(c) As required by California Welfare and Institutions Code (WIC) Section 5604, at least nine members of the Commission shall be consumers or the parents, spouses, siblings, or adult children of consumers, with at least four members being consumers and at least four other members being family of consumers. For purposes of this subsection (c), "family" includes domestic partners and significant others.

The proposed legislation states that the seats on the board will be those required by the State. The WIC says that the board must have a minimum of nine members who are either consumers or family members of consumers. San Francisco exceeds with two additional seats, one a consumer seat and the other a family member seat.

People in these seats are directly receiving services in San Francisco, or are family members whose loved ones are receiving services. As staff, I received many complaints and some horror stories about the services people are receiving. I pass these onto the Commissioners and they will schedule a program review of the programs complained about. Commissioners speak to the Executive Directors regarding the complaints, and then interview clients individually and in a private space. The Commission is the only group that directly interviews clients face to face. Behavioral Health Services (BHS) form of evaluation is a survey submitted by clients voluntarily. We have heard from clients who say they are afraid to fill out the questionnaire if they have a complaint because they are afraid the director will see their survey and will kick them out of the program. We do not ask for their names when we interview clients nor do we provide any identifying information in our reports, because in addition to submitting them to BHS, we send them to the program. When interviewing clients, Commissioners do not share the complaints with clients. They just ask about their own experiences in the programs. After the program reviews, the Commission informs the Director of Behavioral Health Services (BHS) who will call in the BHS staff who is responsible for the program. Programs might then receive help and support and occasionally be discontinued.

Many Commissions/Boards in other counties will go to the press when they don't get concern from their Behavioral Health Services. Only occasionally over the past 21 years has the SF Commission notified the press of the problem, as we have generally gotten a good response from the department. They do take us seriously and follow up with the program, and then report back to us with what they did.

Regarding (g), the WIC is very specific in its language regarding this addition to the requirements for being on the board.

(g) A consumer who has obtained employment with an employer described in subsection (f), and who holds a position in which the consumer has no interest, influence, or authority over any financial or contractual matter concerning the employer may be appointed to the Commission. Such a member shall not participate in any financial or contractual issue concerning his or her employer that may come before the Commission.

The proposed change to this section is vague and would require knowing all things prohibited by state or local law for any matter. The original wording by the state is quite clear. The consumer cannot participate in any discussion the Commission has about financial problems, budgetary needs, etc. nor any discussion about the contract between the Behavioral Health Department and the agency that employs them.

The central purpose for revising the Administrative Code regarding the Behavioral Health Commission, is

The Department shall provide administrative staff to the Behavioral Health Commission with Department employees.

The proposed legislation does not state whether there shall be a fulltime person hired to staff the Commission or one of the many duties of a staff member who also has commitments to other DPH staff. It is also not mentioned how Commission expenses would be allocated and managed. These expenses include items such as venue costs for meetings held in the community, local travel to and from Commission meetings for board members who need that assistance (providing these expenses are in the Welfare and Institutions Code) travel and hotel rooms for board members who attend trainings provided by the California Association of Local Mental Health Boards/Commissions (CALMHB/C) and the dues for CALMHB/C, attending conferences, frames to commendations for individuals and agencies.

Most of the counties that do not have a fulltime staff person for their boards face challenges fulfilling the State mandates. They are all volunteers, most of whom have jobs, families to take care of, and other things they are involved in. The department staff in those counties provide a few hours a month to assist the board. Department staff do not prepare agendas or transcribe minutes. Many are not responsible for arranging for presenters, program reviews, or any of the state mandated requirements.

Changes to Section 15.13 titled Terms of Removal

SEC. 15.13. BEHAVIORAL HEALTH COMMISSION – TERMS OF REMOVAL.

- (a) Except for the Board of Supervisors member, the term of each member of the Behavioral Health Commission (“Commission”) shall be for three years. All member terms shall be reset to begin at noon on January 1, 2021. Thereafter, members’ terms shall be staggered as determined by the Clerk of the Board of Supervisors by no later than December 31, 2020. The Clerk of the Board of Supervisors shall determine by lot the initial terms for all 17 seats. Five seats shall have an initial one-year term expiring January 1, 2022, six seats shall have an initial two-year term expiring January 1, 2023, and six seats shall have three-year terms expiring January 1, 2024. After the initial terms expire, subsequent terms for all seats shall be three years.

Nothing shall preclude any member from resigning, and the term of office of any member may be terminated for the reasons and subject to the reasons set forth in this section 15.13. This sentence, from WIC, was removed in the legislation that went to the Rules Committee. Does it mean that commissioners could not resign?

This rest of this section is so confusing that it is very difficult to parse out the different lengths of the terms. Currently there are only four commissioners who are still serving active terms. Two are members who were just reappointed to their second three-year term. One was just appointed to a three-year term and the fourth has one year left of her second three year term. The remaining seats are waiting reappointment to second terms, either by an individual supervisor or the BOS as a whole. If the designation of the initial length of terms is selected by lot, would it negate the terms of the members who have just been reappointed and the person just appointed to a three-year term? There is no mention of how the different types of seats would fit into these term allocations. It would be possible for the board to have less than nine family members and consumers, during the first few years of implementation.

San Francisco Behavioral Health Commission has been a beacon of success for many of the Commissions/Boards throughout the State, because we have staffing that is separate from the civil service staff who must answer first to their superiors, making it often difficult for the Commissions to effectively and successfully advocate for the most vulnerable people in their counties, or report problems of concern and suggest changes. One of the board's major successes a year or two after I started as executive director was a resolution urging more supportive housing. The Health Commission used our information and sent a resolution to the State. A serious concern we discovered was clients sexually harassing other clients in clinics. This led to redesigning the seating in those clinics for the safety and comfort of the women.

Below are the duties of the Boards and Commissions in the State of California. Many are duties that require oversight of the department and advice to top management, such as 1, 3, 4, 7, 8, and 9.

- (a) The San Francisco Mental Health Board shall:

- (1) Review and evaluate the City and County's mental health needs, services, facilities and special problems;
 - (2) Review any City and County agreements entered into pursuant to Welfare and Institutions Code Section 5650;
 - (3) Advise the Board of Supervisors, the Health Commission, the Director of Health and the Director of Mental Health as to any aspect of the local mental health program;
 - (4) Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process;
 - (5) Review the procedures used to ensure the involvement of interested members of the mental health community and the public in the development of the budget for mental health services and report on the matter to the Board of Supervisors;
 - (6) Submit an annual report to the Board of Supervisors on the needs and performance of the City and County's mental health system;
 - (7) Review and make recommendations on applicants for the appointment of Director of Mental Health. The Mental Health Board shall be included in the selection process prior to the selection of a person to fill this position;
 - (8) Review and comment on the City and County's performance outcome data and communicate its findings to the State Mental Health Commission;
 - (9) Assess the impact of the realignment of services from the State to the City and County on services delivered to clients and on the local community.
- (b) Members of the Mental Health Board shall abstain from voting on any issue in which the member has a financial interest as defined in Section 87103 of the Government Code. The Mental Health Board is subject to the provisions of Government Code Sections 54950 et seq. relating to the conduct of open meetings by local agencies.

Regarding the current seat allocation, we exceed the State requirements. We have 5 consumers and 6 family members, 2 mental health professionals and 3 public interest seats. In San Francisco I believe it is very important to have more consumers and family members than the 9 required by the State.

People in these seats are directly receiving services in San Francisco, or are family members whose loved ones are receiving services. As staff, I received many complaints and some horror stories about the services people are receiving. I pass these onto the Commissioners and they will schedule a program review of the programs complained about. Commissioners speak to the Executive Directors regarding the complaints, and then interview clients individually and in a private space. The Commission is the only group that directly interviews clients face to face.

Behavioral Health Services (BHS) form of evaluation is a survey submitted by clients voluntarily. We have heard from clients who say they are afraid to fill out the questionnaire if they have a complaint because they are afraid the director will see their survey and will kick them out of the program. We do not ask for their names when we interview clients nor do we provide any identifying information in our reports, because in addition to submitting them to BHS, we send them to the program. When interviewing clients, Commissioners do not share the complaints with clients. They just ask about their own experiences in the programs. After the program reviews, the Commission informs the Director of Behavioral Health Services (BHS) who will call in the BHS staff who is responsible for the program. Programs might then receive help and support and occasionally be discontinued.

Many Commissions/Boards in other counties will go to the press when they don't get concern from their Behavioral Health Services. Only occasionally over the past 21 years has the SF Commission notified the press of the problem, as we have generally gotten a good response from the department. They do take us seriously and follow up with the program, and then report back to us with what they did.

Corrections to the June 20th document entitled San Francisco Behavioral Health Commission Reorganization. I believe this document was prepared by a former board member and submitted to the Department of Public Health and the Board of Supervisors.

The purpose of this proposal is to reorganize the San Francisco Behavioral Health

Commission (SFBHC), formerly the San Francisco Mental Health Board, to be a separate entity from the San Francisco Mental Health Education Fund (SFMHEF), a private, not for profit agency.

SFMHEF and SFBHC have always been separate and distinct entities. BHS contracts with SFMHEF to provide staffing and support for the BHC. The relationship is no different than contracts with BHS between all of the 150 or so non-profits that have contracts with BHS to provide a range of services.

As a distinct entity, placed in the Department of Public Health/Behavioral Health Services (DPH/BHS) the Commission will be better able to carry out its State and County mandated mission. More than ever before, the advice of this Commission will be critical in this time of severe budgetary limitations and curtailment of much needed behavioral health services.

HISTORY: The San Francisco Mental Health Educations Funds, Inc. (SFMHEF), a 501 (c) 3 non-profit organization, was established in 1972. At the time it was established, government agency procurement was not an issue, and sole source contracting was a normal way of doing government business. SFMHEF was established 38 years ago to pay the bills for government sponsored training programs and in 1993 to provide staff support for the Mental Health Board. This made it quite easy for the public funded Mental Health Department to do training without having to get bids for venues, training materials, food vendors; and, likewise trainers were pleased because getting paid was much easier and quicker than going thru bureaucratic procedures. To some degree it was a win-win process, but clearly in today's world, laws need to be obeyed and this DPH/BHS contract appears to ignore and bypass procurement procedures. Moreover, the Mental Health Board benefited by having paid staff dedicated to help them develop position papers, annual reports, conduct community site visits and hold public hearings.

SFMHEF has a 16-member Board of Directors consisting of past and present Behavioral Health Commissioners and interested community members. Furthermore, indirect funds made available through the DPH/BHS training contract, plus a small city grant, provide a percentage of the salary of

the Executive Director and Administrative Assistant, to staff the 17-member State and City mandated Behavioral Health Commission.

Corrections to the History of SFMHEF.

SFMHEF was established **48 years ago** so that the Mental Health Board would be able to contract with BHS (then called Community Mental Health Services or CMHS) for a small grant to fund a few hours of clerical time and supplies for the board. At that time there were five or six urgent care clinics throughout the City, each with a small advisory committee. The Mental Health Board worked with and coordinated its advocacy efforts with these separate advisory committees. In the Articles of Incorporation, there are several other community activities and trainings that SFMHEF could do as well.

The role of providing fiscal support for BHS training programs did not begin until around 1991. There was only one training fund, the CMHS training program. It had a budget of \$40,000, plus all DPH and CMHS employees who wanted to earn CEUs had to pay \$20 for each training. The role of fiscal support was to make it easier to accept the payments for CEUs and to pay small vendors who provided catering, cost of renting venues, stipends for consumers, supplies for the training and speaker fees. Venues and speakers are not willing to wait the three to eight months it often takes DPH to pay the bills. DPH does not require competitive bids for speakers for workshops, plus at that time an agency contracting with a city department did not need to seek three bids for any service under \$3,000. That minimum was raised a few years ago to \$10,000. ALL LAWS FOR THE CITY OF SAN FRANCISCO AND THE STATE OF CALIFORNIA WERE OBEYED AS WELL AS BOTH THE PROCUREMENT REQUIREMENTS IN THE 90s AND CURRENT REQUIREMENTS.

Corrections to this section

SFMHEF has a 16-member Board of Directors consisting of past and present Behavioral Health Commissioners and interested community members. Furthermore, indirect funds made available through the DPH/BHS training contract, plus a small city grant, provide a percentage of the salary of the Executive Director and Administrative Assistant, to staff the 17-member State and City mandated Behavioral Health Commission.

The BHS contract with SFMHEF includes full funding for the two BHC staff. Only 22% of the Administrative Assistant is paid from the Indirect coming from the training funds. The total budget for salaries and benefits for both staff is approximately \$158,000. About \$18,000 of the contract is for BHC specific expenses. The balance of the contract are the grants for the different training funds amounting to about \$150,000.

RESPONSE TO THE PROPOSAL

If BHC is subsumed within BHS, the department is far less likely to understand and accept that the BHC role is to oversee the department. Many other boards and commissions in California

have complained that their health departments will not allow them to pursue some avenues of advocacy or to respond to the commissions' requests for resolutions to problems uncovered by the commission or suggestions for change.

If BHS staff provides some support for the BHC, \$300,000 cannot be saved because the cost of two –35 hours per week staff is only \$158,000.

Furthermore, if BHS decides to hire a full time staff person dedicated solely to supporting the BHC, it can take from six to twelve months to get the new position created and filled.

Sincerely,

HelyInna Brooke

Former Executive Director, SF Behavioral

Wynship W. Hillier, M.S.
Post Office Box 427214
San Francisco, California 94142-7214
(415) 505-3856
wynship@hotmail.com

October 21, 2020

Norman Yee, President
San Francisco Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94103

Sent via email to board.of.supervisors@sfgov.org

Re: File No. 200951

Honorable Supervisor Yee:

A surreal scene occurred at the Rules Committee meeting from which this legislation originated. I had just reminded the committee-members of the necessity of San Francisco Mental Health Education Funds, Inc. ("SFMHEF") in exposing the involuntary mental health gulag that San Francisco has become. This resulted in palpable smugness as they unanimously gaveled it through.

It is not every day that one finds politicians so eager and willing to wear their contempt for the Constitution and for their oaths of office as badges of honor.

The logic is simple: The federal Constitution—to say nothing of the state—forbids involuntary mental health treatment through detention or administration of antipsychotic medication unless the patient is dangerous to self or others due to mental illness. This is the standard developed by the U.S. Supreme Court (though pioneered by California's Lanterman-Petris-Short Act), which is the institution responsible for interpreting the Constitution.¹ This is still good law and its reasoning is still sound: psychiatric diagnoses are too unreliable a basis upon which to work such drastic losses of liberty unless the safety of the public is at issue.² Most people thought to

¹ *Cooper v. Aaron*, 358 U.S. 1, *18-19, 78 S. Ct. 1401 *1409-10, 3 L. Ed. 2d 5 *16-17 (1958).

² *O'Connor v. Donaldson*, 422 U.S. 563, *575 (Justice Stewart) (unanimous) (1975) (involuntary detention); *Washington v. Harper*, 494 U.S. 210, *221-22 (Justice Kennedy), *237-38 (Justice Stevens, *diss.*) (unanimous on this point) (1990) (involuntary administration of antipsychotic medication). *See, also*, Kenneth Mark Colby and

have mental illness (even among mental health professionals, whether a given patient has it will depend upon whom you ask) are not dangerous due to mental illness. Therefore, they cannot be involuntarily treated, no matter how much distress they may cause “well-meaning” and “compassionate” people who cannot bear the sight of human suffering (and no matter how “sure” a psychiatrist feels that they are sick). Furthermore, even if it were the case that a litmus test existed for mental illness, treatments are not very effective in curing it.³ Treatment being ineffective would not be a problem if it were not also the case that it is onerous.⁴ People have a right to be free of it.

The Lanterman-Petris-Short Act, backed by interpretations of both federal and state Constitutions, would thus keep the public from making stupid and tragic mistakes . . . if it were but followed. Prior to 2001, involuntary treatment was up against these Constitutional constraints.⁵ There was also a popular movement against them. Nearly two dozen mental health bills were introduced in the legislature at the beginning of the year 2000.⁶ A.B. 1800 among them sought to lower the standard for involuntary mental health treatment. A committee of ten state legislators toured the state, holding public hearings on the issue.⁷ Unfortunately, San Francisco caved to political pressure against the unpopular ones, contemporaneous with some building failures on the opposite coast and a declaration of war.

James E. Spar, *The Fundamental Crisis in Psychiatry: Unreliability of Diagnosis* (1983); H.L.M. Hart, *Law, Liberty, and Morality* (1963) (government should be concerned with public safety and has neither right nor duty to regulate morals).

³ Robyn M. Dawes, *House of Cards: Psychology and Psychiatry Built on Myth* (1994) (examining Glass-Segal meta-study on effectiveness of therapy). See, also, *O'Connor v. Donaldson*, *supra*, 422 U.S. at *584 (Chief Justice Berger, *concur.*).

⁴ Involuntary administration of antipsychotic medication, “one of the earmarks of the gulag.” *Keyhea v. Rushen*, 223 Cal.Rptr. 746, 178 Cal.App.3d 526 (1986) (Associate Justice King). Psychosurgery “more harmful than the disease.” *Aden v. Younger*, 57 Cal. App. 3d 662, 678, 129 Cal. Rptr. 535 (1976) (Justice Brown).

⁵ Bruce J. Winick, *The Right to Refuse Mental Health Treatment* (1996).

⁶ “Hearing Spotlights Plight of Neglected Mentally-Ill,” *Sacramento Bee*, March 3, 2000, A-3.

⁷ Senate Concurrent Resolution 59 (1999-2000 session), creating the Joint Committee on Mental Health Reform.

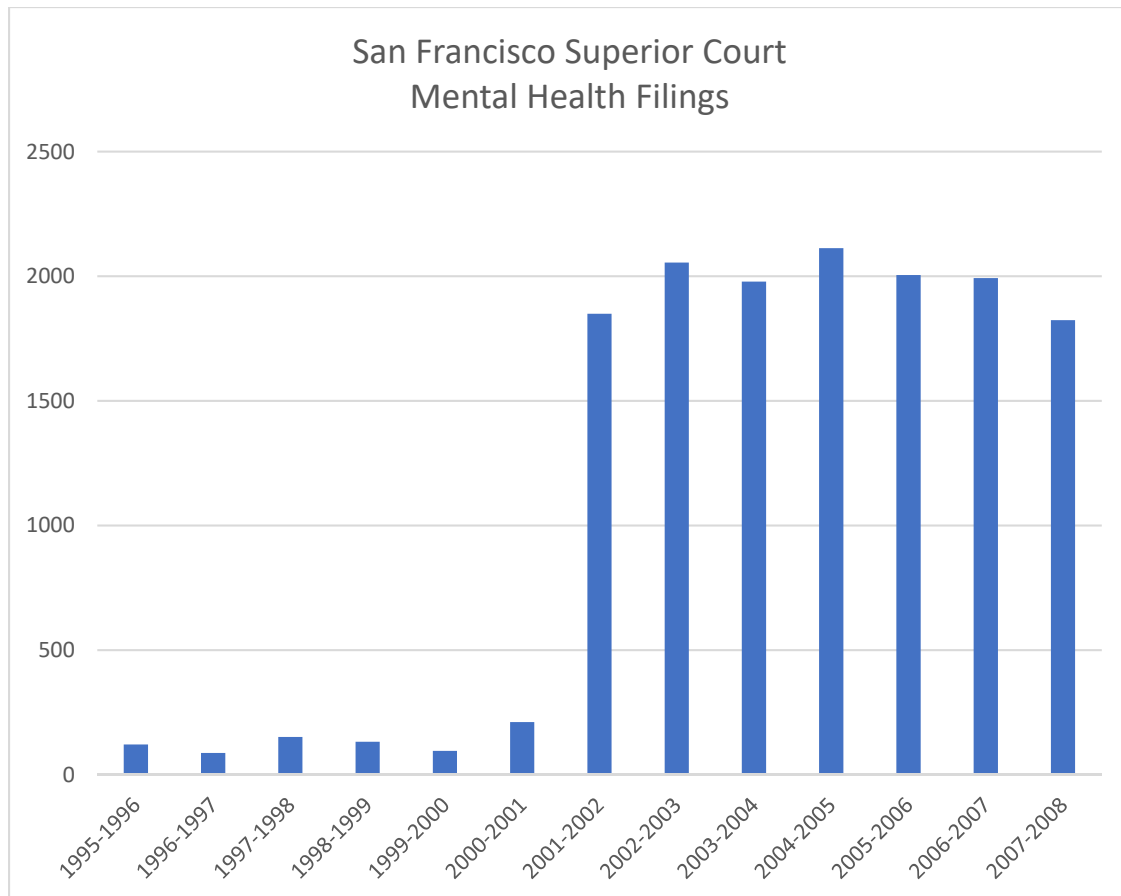


Fig. 1 – Meteoric rise in petitions for long-term involuntary mental health treatment before San Francisco Superior Court

Make no mistake. Such a rise in petitions could only occur with a comparable rise in orders granting them. Such a rise in orders could only have occurred through a drastic abrogation of the aforementioned standards. Such a drastic abrogation of standards could only stand by immunizing the cases from challenge. Such immunization may only occur one way: *ex parte* petitions in totally-sealed cases. This is violative of the federal Constitution on its face, as well as providing cover for other Constitutional violations to continue with impunity.

As suggested, this had some vague connection to the War on Terror. The War on Terror was declared against “international terrorists,” and no specific country.⁸ “International terrorists” may include U.S. persons inside the U.S.⁹ War includes the use of high-technology clandestine

⁸ Authorization for the Use of Military Force of Sept. 18, 2001, Pub. L. 107-40, § 2(a) (115 Stat. 224).

⁹ 50 U.S.C. § 1801(b)(2)(C) (defining “agent of a foreign power” to include U.S. persons who “knowingly engage[] in . . . international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power . . .”) and (a)(4) (defining “foreign power” to include “a group engaged in international terrorism or activities in preparation therefor . . .”).

methods. UCSF underwent an huge expansion contemporaneous with the War on Terror, vaulting to the largest employer in the City and County and building its Mission Bay campus, distinctive for its buildings closed to the public, a first for this school devoted entirely to the medical sciences. These buildings are secure due to classified research carried on therein. To be eligible for classification, the information to be protected must be “expected to cause identifiable or describable damage to the national security,” and pertain to, relevantly, “military plans, weapons systems, or operations,” “intelligence activities (including covert action), intelligence sources or methods, or cryptology,” or “scientific, technical, or economic matters relating to the national security . . .”¹⁰

A survey of the literature on mental illness and terrorism concluded that there was no reliable distinction between the two, and the International Committee of the Red Cross had vigorously argued leading up to 9-11 that terrorists should be treated as enemies, rather than as criminals.¹¹ The intelligence community is further required by law to cooperate with local authorities, including mental health authorities.¹² Added to this, some vacated decisions by the 9th Circuit had established immunity from prosecution for federal law enforcement officers who violate state law in the course of their duties (such as California's Lanterman-Petris-Short Act, which put tight limits on involuntary mental health treatment).¹³ Presumably, this would extend to military activity. Deprecated U.S. Supreme Court precedent supports violation of Constitutional rights at a time of war.¹⁴ A dissenting opinion had warned against conversion of “the Constitutional Bill of Rights into a suicide pact.”¹⁵ Altogether, this adds up to at least a strong likelihood of a domestic policy of involuntary mental health treatment using clandestine weaponry on very questionable authority, but which cannot be challenged anyway, all under auspices of the War on Terror. But there is more.

¹⁰ Sec. 1.4(a), (c), and (e) of Exec. Order No. 13,526 (Dec. 29, 2009), 3 C.F.R. §§ 298, 300 (2009 Compilation) (2010), *reprinted in* 50 U.S.C. § 3161 *note*.

¹¹ Nicholas N. Kittrie, *The War Against Authority: From the Crisis of Legitimacy to a New Social Contract* (1998) 31-56 (literature survey), and 221 (International Committee of the Red Cross).

¹² Sec. 1.4(g) of Exec. Order No. 12,333 (Dec. 4, 1981), 3 C.F.R. §§ 200, 202 (1981 Compilation) (1982), *reprinted as amended in* 50 U.S.C. § 3001 *note*. Section added by E.O. 13,470 (July 30, 2008).

¹³ *Harris v. Roderick*, 126 F.3d 1189, *1199 n. 12 (9th Cir. 1997) (Circuit Judge Reinhardt) (immunity not decided), *Idaho v. Horiuchi*, 1998 U.S. Dist. LEXIS 7667, *31 (D. Id.) (District Judge Lodge) (immunity granted), *aff'd* 215 F. 3d 986, 997 (9th Cir. 2000) (District Judge Shubb), *reh'g granted* 228 F.3d 1069 (9th Cir. 2001), *vacated* 226 F.3d 979 (9th Cir. 2001).

¹⁴ *Toyosaburo Korematsu v. United States*, 323 U.S. 214, *217-18 (1944) (Justice Black), *reh'g denied, overruled* *Trump v. Hawaii*, 138 S. Ct. 2392, *2423, 201 L.Ed.2d 775 (2018); *see, also, Holder v. Humanitarian Law Project*, 561 U.S. 1, *45 (2010) (Chief Justice Roberts) (state of war does not negate Constitutional protections).

¹⁵ *Terminiello v. Chicago*, 337 U.S. 1, *37 (1949) (Justice Jackson, *diss.*).

San Francisco has since become the leading county in the state for violating the rights of patients.

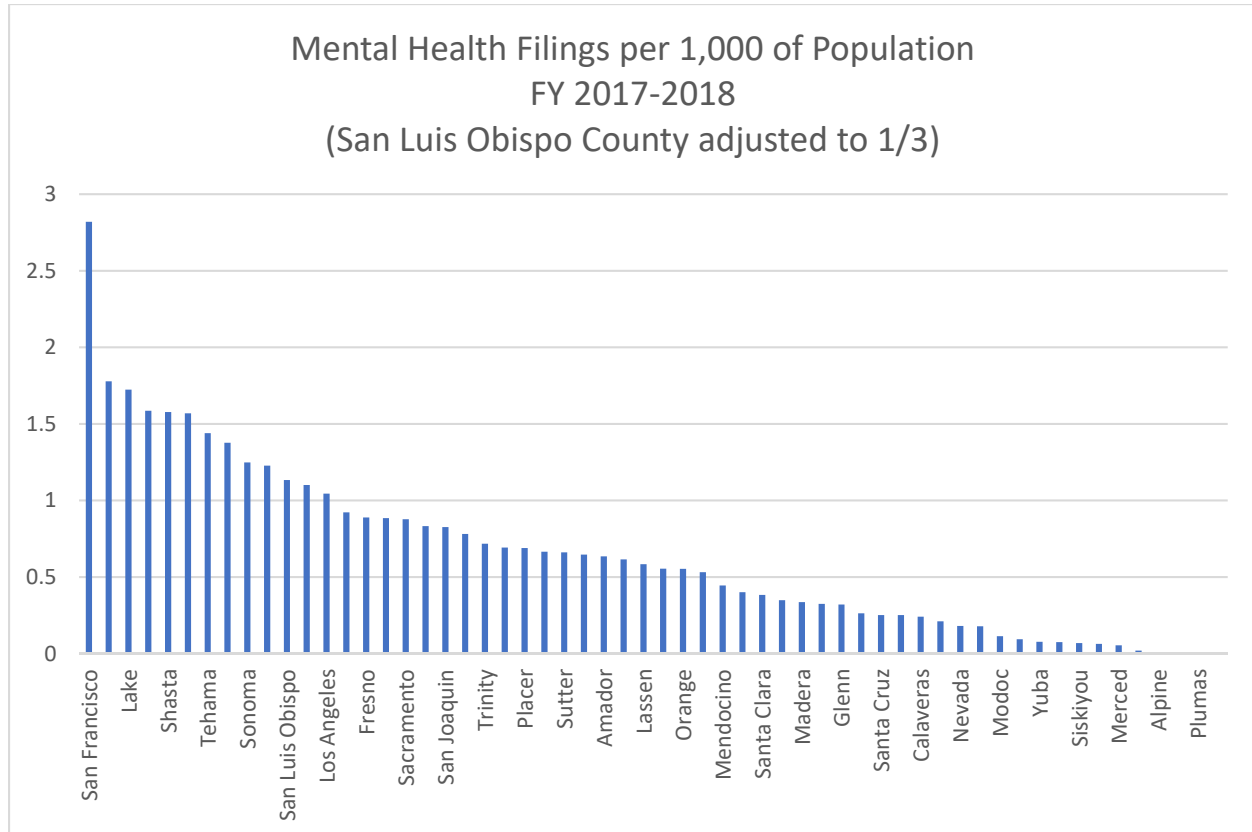


Fig. 2 – Ranking of California counties by number of petitions for long-term involuntary mental health treatment filed, per 1,000 of population, in FY 2018-2019. San Luis Obispo County's figure has been reduced to compensate for the presence of the Atascadero Special Facility (“ASF”), which generates all or nearly all of California's *Penal Code* § 2966 petitions, included in this statistic because prisoners are committed to long-term involuntary mental health treatment at the ASF without judicial process in California, and so would otherwise not contribute to this statistic at all.

San Francisco's involuntary mental health gulag has even overtaken its criminal justice system in terms of the number of lives directly affected.

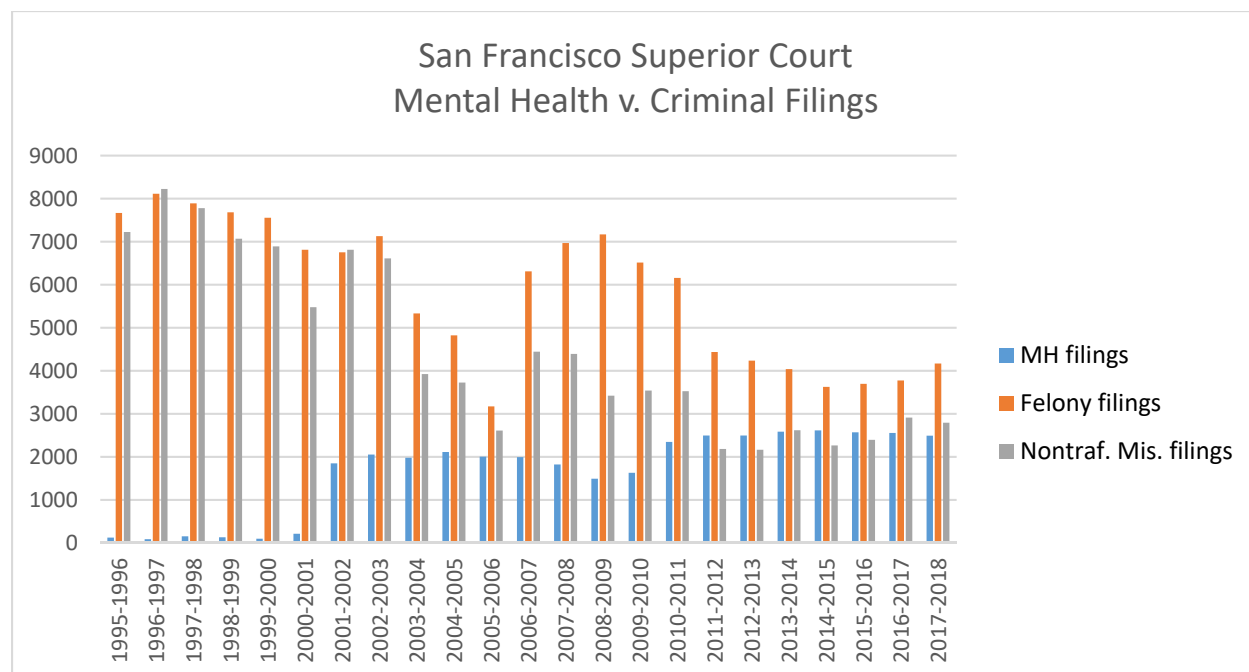


Fig. 3 – Petitions for long-term involuntary mental health treatment filed, as compared to misdemeanor and felony complaints

These numbers come from the Judicial Council of California and the U.S. Census. They may be checked against reports available on their websites. Precise references available upon request.

As you might suspect, the number of patients subject to long-term involuntary mental health treatment (whose treatment is not so much long-term as permanent, or, rather, terminal) has grown rather large in recent years. Behavioral Health Services recently reported some 30,000 active patients.¹⁶ This is over three percent of the City and County's population.

The ostensible reasons for replacing SFMHEF with DPH sound hollow and are ever-changing. One ought to consider why now would be an opportune time to sever a 47-year-old relationship. My Sunshine Ordinance/PRA requests to examine the archives of the Behavioral Health Commission (“BHC”) have gone unanswered after the statutory time limit had expired. In more conventional times, they might have shown why SFMHEF was made the fiscal intermediary of

¹⁶ Mental Health Board of San Francisco, *Fiscal Year 2018-2019 Annual Report* 33, available at <https://www.sfdph.org/dph/files/commTaskForcesDocs/mentalHlthBdDocs/newMntHlth/uploadedfiles/Annual%20Report%202019%20-%20final%2006-30-2019.pdf> shows 27,980 total mental health + substance abuse patients. Deborah Sherwood of BHS claimed 30,000 active patients at a BHC committee meeting last year.

BHC in 1973. The only likely answer is to give BHC independence from DPH. The above information shows why this independence is now more important than ever.

Therefore, beware. File no. 200951 has nothing to do with lack of transparency, a Paycheck Protection Loan, nor financial irregularities (DPH's investigation is still ongoing), nor the workload of Commissioners serving on both boards (to cite Supervisor Stefani's latest and new rationalization). File no. 200951 is coming up now because last November BHC passed a resolution recommending the approval of a proposed ordinance that would begin to daylight San Francisco's involuntary mental health treatment gulag, onerously for DPH, a copy of which I am appending to this letter. As it was, the resolution and proposed ordinance never made it to the Health Commission, nor to you. How much worse might it have fared (and better for DPH) if BHC had been staffed by DPH at that time?

Reject File no. 200951, or condemn San Francisco's mental health gulag to even deeper darkness. If you pass it, not only might you violate your Oath of Office, you might even have become the very enemy against whom you swore to defend the Constitution.

Very truly yours,



Wynship Hillier

Enclosure

cc/encl.: Marylyn Tesconi, Chair, San Francisco Behavioral Health Commission
Harriette Stallworth Stevens, Chair, San Francisco Mental Health Education Funds, Inc.

ATTACHMENT A: DRAFT LANGUAGE OF PROPOSED ORDINANCE

Be it ordained by the People of the City and County of San Francisco:

Section 1. Article 41 of the Health Code is hereby amended by adding Division IV to read as follows:

DIVISION IV: LONG-TERM INVOLUNTARY TREATMENT

SEC. 4131. REPORTS.

The Department of Public Health shall provide an annual report to the Board of Supervisors showing the following numbers for each fiscal year:

(a) Regarding misdemeanor defendants who have been determined to be incompetent to stand trial due to mental disorder alone, whom the court has either found not to be appropriate candidates for diversion pursuant to California Penal Code § 1001.35, or who are not eligible for diversion pursuant to California Penal Code § 1001.36,

(1) The number of such individuals whom the local behavioral health director was ordered to evaluate pursuant to California Penal Code § 1370.01(a)(3)(A) during the fiscal year;

(2) The number of initial determinations regarding the suitability of outpatient treatment the local behavioral health director or designee made pursuant to California Penal Code § 1370.01(a)(3)(A) for such defendants during the fiscal year;

(3) The number of such defendants whom the local behavioral health director or designee recommended that they be required to undergo outpatient treatment, rather than committed to a treatment facility during the fiscal year;

(4) The number of such defendants who were transferred from outpatient to inpatient status pursuant to California Penal Code §§ 1608 or 1609 during the fiscal year;

(5) The number of such defendants who were transferred from inpatient to outpatient status pursuant to Title 15 of Part 2 of the California Penal Code during the fiscal year;

(6) The number of such defendants who departed from the City and County while on outpatient status, including, but not limited to, departures from the state pursuant to California Penal Code § 1611, during the fiscal year;

(7) The number of such defendants who entered the City and County while on outpatient status during the fiscal year;

(8) The number of such defendants who recovered competency while on outpatient status pursuant to California Penal Code § 1607 during the fiscal year;

(9) The number of such defendants who recovered competency while inpatients;

(10) The number of such defendants whose involuntary treatment terminated without recovery of competence due to the conclusion of the period of commitment, while inpatients, during the fiscal year;

(11) The number of such defendants whose involuntary treatment terminated without recovery of competence due to the conclusion of the period of commitment, while on outpatient status, during the fiscal year;

(12) The number of such defendants who died while inpatients during the fiscal year;

(13) The number of such defendants who died while on outpatient status during the fiscal year;

(14) The number of such defendants who were inpatients at the end of the fiscal year;

(15) The number of such defendants who were on outpatient status at the end of the fiscal year; and

(16) Other matters the Department deems relevant.

(b) Regarding individuals subject to postcertification treatment pursuant to Article 6 of Chapter 2 of Part 1 of Division 5 of the California Welfare & Institutions Code,

(1) The number of such individuals whom the local behavioral director or designee assumed supervision as outpatients pursuant to California Welfare & Institutions Code §5305(c) during the fiscal year;

(2) The number of such individuals who were transferred from outpatient to inpatient status pursuant to California Welfare & Institutions Code §§ 5306.5(b) or 5307 during the fiscal year;

(3) The number of such individuals who were unconditionally released from inpatient status pursuant to California Welfare & Institutions Code § 5309(b) during the fiscal year;

(4) The number of such individuals subject to supervision as outpatients pursuant to California Welfare & Institutions Code § 5305(c) who departed from the City and County during the fiscal year;

(5) The number of such individuals who died while inpatients during the fiscal year;

(6) The number of such individuals who died while subject to supervision as outpatients pursuant to California Welfare & Institutions Code § 5305(c) during the fiscal year;

(7) The number of such individuals who were inpatients at the end of the fiscal year;

(8) The number of such individuals who were subject to supervision as outpatients pursuant to California Welfare & Institutions Code § 5305(c) at the end of the fiscal year; and

(9) Other matters the Department deems relevant.

Section 2. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 3. Scope of the Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Health Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 4. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming and undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for break of which it is liable in money damages to any person who claims that such breach proximately caused injury.

From: [Geoffrey Grier](#)
To: [Young, Victor \(BOS\); Board of Supervisors, \(BOS\)](#)
Subject: file no. 200951
Date: Wednesday, October 21, 2020 5:00:49 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

I spoke in at the Rules Committee in opposition to file no.200951

I will keep my statement brief more out of exasperation than lack of examples or personal experience.

The African American population of San Francisco is dipping below 6% as of 2010, down from 13.4% in 1970, while the need for mental health services by the SF African American population is pushing north of 19%. Please note these numbers are pre pandemic.

So in short to render a commission that directly advocates for the needs of an already underserved population because of administrative errors, failures or lack of oversight or whatever the cause, to render this commission inactive at a time like this is cruel. Then to add insult to injury, delegate the solution to an antiquated system of hiring and moving at glacier speed. This process could take in excess of a year to hire someone!!! This is ludicrous and all the time being fed the standard line, "That's the process". When does it become critical? When does it become critical and in need of being pushed into priority?

To sentence the SF Black population in most need, to waiting on DPH, is unfair

Geoffrey Grier

Dir SF Recovery Theatre

650-438-3964