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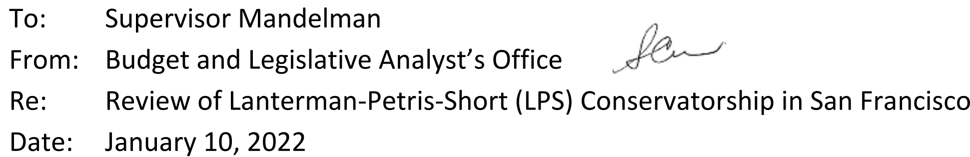
Policy Analysis Report



To: Supervisor Mandelman
From: Budget and Legislative Analyst's Office
Re: Review of Lanterman-Petris-Short (LPS) Conservatorship in San Francisco
Date: January 10, 2022

Summary of Requested Action

This report is an update to the November 2019 *Review of Lanterman-Petris-Short (LPS) Conservatorship in San Francisco,* prepared by the Budget and Legislative Analyst's Office at the request of Supervisor Mandelman. The purpose of this report was to understand the effectiveness of LPS conservatorships, including whether all individuals who are gravely disabled by mental illness or alcoholism are appropriately referred to LPS conservatorship, and if current practices sufficiently evaluate the effectiveness of LPS conservatorship.

For further information about this report, contact Severin Campbell at the Budget and Legislative Analyst's Office.

Executive Summary

- The Lanterman-Petris-Short (LPS) Act of 1967 established a uniform and statewide civil process for the involuntary detention of people considered gravely disabled due to a serious mental illness and/or chronic alcoholism. California's Welfare and Institutions Code defines "gravely disabled" as individuals who are unable to provide for their basic personal needs for food, clothing, or shelter. The Public Conservator within the Department of Disability and Aging Services of the Human Services Agency administers San Francisco's mental health conservatorships.

- San Francisco has three types of mental health conservatorships: (1) the LPS conservatorship; (2) Murphy conservatorship for individuals who are defendants in criminal cases, have a mental illness, and are unable to understand the nature of the proceedings; and (3) the housing conservatorship. LPS conservatorships include traditional conservatorship, in which the individual is placed in an appropriate residential setting, and two community-based service models that are designed to allow individuals with a mental illness to transition from an acute-care setting directly to a community-based setting without an interim stay in a subacute facility. In addition, San Francisco implemented a housing conservatorship pilot program in 2019, which sunsets in 2023, providing conservatorship for individuals diagnosed with both a serious mental illness and a substance use disorder who experience at

least eight 5150 holds within 12 months. An individual placed in a mental health conservatorship must be unable to accept voluntary services or be served at a less restrictive level of care.

- San Francisco had a higher LPS conservatorship caseload per 10,000 residents in FY 2020-21 than 12 other large California counties that we surveyed. The San Francisco conservatorship caseload of 769 in FY 2020-21 was at the highest point in the six years between FY 2015-16 and FY 2020-21. Annual conservatorship referrals ranged from 133 in FY 2015-16 to 141 in FY 2020-21. The percentage of referrals resulting in permanent conservatorship increased from 36 percent in FY 2015-16 to 66 percent in FY 2019-20 following the implementation of the 30-day psychiatric hold under California Welfare and Institutions Code 5270. The number of discharges fell below the number of referrals beginning in FY 2017-18, contributing to the increase in caseload.

- The California State Auditor conducted an audit, released in July 2020, on the implementation of the LPS Act in Los Angeles, San Francisco, and Shasta counties. Based on cases reviewed in the three counties, the audit found the grave disability criterion to be interpreted and applied similarly across the three counties, and that professionals used definitions of grave disability that were not overly restrictive. The auditors conclude that expanding or revising the criteria for which individuals could be involuntarily held or conserved could widen the use of involuntary holds, creating a risk of infringing on individuals' rights. In their responses to the audit, both San Francisco and Los Angeles counties disagreed with the finding that the definition of grave disability was sufficient, and both advocated for modernizing the LPS Act.

Policy Considerations

- **Individuals discharged from psychiatric holds are not systematically connected to outpatient care, and data on individuals discharged from conservatorship who decline ongoing care are not tracked**

  According to the July 2020 State Audit report, "San Francisco's lack of coordination with medical facilities has often left individuals who are released from involuntary holds without connections to county mental health treatment services." According to the State Auditor, San Francisco representatives indicated that some individuals do not participate in voluntary intensive services after discharge from psychiatric holds but may have been referred to other services. The State Audit report, which recommended that San Francisco adopt a systematic approach to identify individuals placed on multiple psychiatric holds, was completed prior to the implementation of Mental Health SF and establishment of the Office of Coordinated Care, which according to San Francisco's response to the audit, aims to provide care coordination and wrap around services to individuals. According to our discussions with

Department of Public Health staff, the Office has not yet hired sufficient staff to provide these services.

The State Audit report did not address follow up care for individuals discharged from LPS conservatorship; according to our discussions with Department of Public Health staff, the goal is to provide case management, placement, and medication management to these individuals but participation in services is voluntary once these individuals are no longer conserved. The Department's policy is to work with individuals who decline services to encourage their participation, but the Department does not track data on individuals who decline services on discharge from LPS conservatorship. The mental health status of individuals who are discharged from conservatorship can deteriorate, resulting in repeated referrals and subsequent conservatorship episodes. In FY 2019-20, approximately 9 percent of individuals referred to conservatorship had been under LPS conservatorship in the prior year. Of the LPS caseload on June 30, 2021, more than half (58 percent) had a previous conservatorship episode.

The Budget and Legislative Analyst's November 2019 *Review of Lanterman-Petris-Short (LPS) Conservatorship in San Francisco* report recommended that, to better evaluate outcomes for individuals placed in temporary psychiatric holds or conservatorship, the Department of Public Health and Public Conservator should establish (1) a Memorandum of Understanding (MOU) on their respective roles and responsibilities, and (2) a data sharing agreement to allow access to and reporting on data for individuals placed in LPS conservatorship. The departments have established the data sharing agreement, but the MOU has not been finalized.

Recommendation: The Board of Supervisors should request the Director of Public Health to present a report on (a) the implementation of the State Auditor's recommendation to implement a systematic approach to identifying individuals released from psychiatric holds and connecting these individuals to services, and (b) implementation of the Office of Care Coordination, including hiring of staff, establishment of case management and service coordination for individuals discharged from psychiatric holds and conservatorship, and tracking of individuals after discharge. This report can correspond to the Department's response to the State Audit report.

Recommendation: The Board of Supervisors should request the Director of Public Health and Public Conservator to report prior to June 2022 on the timeline and process for implementing a Memorandum of Understanding on their respective roles and responsibilities to better evaluate outcomes for individuals placed in temporary psychiatric holds or conservatorship.

- **Lack of mental health treatment beds impacts referrals to conservatorship**

One academic report found that perceptions of the availability of treatment beds affected conservatorship referrals. The June 2020 State Audit report found that a

shortage of beds in state hospitals, which treat the most critically ill patients and have wait times of one year or longer, compromised treatment for some individuals placed in LPS conservatorship.

Many individuals who are conserved require placement in psychiatric skilled nursing and locked subacute beds, but the number of beds available to San Francisco patients only increased from 278 in FY 2018-19 to 280 in FY 2020-21. Average wait times for placement in locked subacute beds increased from approximately 20-50 days in FY 2017-18 to more than 100 days in FY 2019-20.

San Francisco's goal is to add 408 mental health treatment beds of which 44 beds or approximately 11 percent are in psychiatric skilled nursing and locked subacute facilities. Many of the proposed 408 mental health treatment beds will be contracted with providers out-of-county, and San Francisco must compete with other counties for placements. Directly purchasing beds would give San Francisco more control over location and placements but purchasing and rehabilitating a facility is a long process.

Recommendation: The Board of Supervisors should request the Director of Public Health to present an update prior to June 2022 on the purchase or contracting of 408 beds, including a timeline for completing purchase or contracting, potential or known barriers to purchase or contracts and action to address these barriers, and occupancy of these beds and impact on wait times for types of beds.

Project staff: Rashi Kesarwani, Severin Campbell

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Lanterman-Petris-Short Conservatorships

The Lanterman-Petris-Short (LPS) Act established a uniform and statewide civil process for the involuntary detention of people considered gravely disabled due to a serious mental illness and/or chronic alcoholism. California's Welfare and Institutions Code defines "gravely disabled" as individuals who are unable to provide for their basic personal needs for food, clothing, or shelter.[1] The Act specifies that a person is not "gravely disabled" if they can survive safely with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter. Legal precedent further establishes that:

- **Unhoused Individuals Who Can Access Services Are Not Gravely Disabled**. Being homeless, by itself, would likely not meet the gravely disabled standard; however, someone who cannot or will not try to find food or shelter as a direct result of a mental illness would more likely be considered gravely disabled.
- **Likelihood of Future Harm May Not Be Grave Disability.** Although past acts may be considered, someone is not gravely disabled unless they are a present danger to themselves because of their inability to provide self-care. The likelihood of future harm may not be enough to meet the gravely disabled standard.

The primary intent of the LPS Act was to end the inappropriate, indefinite, and involuntary commitment of people living with mental illness and chronic alcoholism. The LPS Act specifies that individuals have a right to contest or challenge involuntary treatment at any time during conservatorship.[2] Furthermore, individuals who are placed in an LPS conservatorship are expected to improve their mental health over time. To enable this outcome, the LPS Act requires an annual evaluation of all individuals who are conserved to determine readiness for discharge from conservatorship.

The LPS Act authorizes local courts to determine whether individuals are gravely disabled and should be placed in conservatorship. If so, the LPS Act enables local courts to appoint a conservator who would be responsible for decision-making on behalf of the individual and their well-being during the conservatorship period.

Appendix I describes the provisions of the LPS Act.

Disagreement Related to Adequacy of Existing Definition of Grave Disability

After the completion of the Budget and Legislative Analyst's report in November 2019, *Review of Lanterman-Petris-Short (LPS) Conservatorship in San Francisco*, the California State Auditor conducted an audit, released in July 2020, on the implementation of the LPS Act in Los Angeles, San Francisco, and Shasta counties. Based on cases reviewed in the three counties, the audit

[1] LPS conservatorships were established by the Lanterman-Petris-Short Act of 1967 and codified in the California Welfare and Institutions Code Section 5000. Section 5008(h)(B)(2) of the Code defines "gravely disabled."
[2] California Welfare and Institutions Code, Division 5, Section 5003 (WIC § 5003).

found the grave disability criterion to be interpreted and applied similarly across the three counties and that professionals used definitions of grave disability that were not overly restrictive.[3] The auditors conclude that expanding or revising the criteria for which individuals could be involuntarily held or conserved could widen the use of involuntary holds, creating a risk of infringing on individuals' rights. In their responses to the audit, both San Francisco and Los Angeles counties disagreed with the finding that the definition of grave disability was sufficient, and both advocated for modernizing the LPS Act. (Shasta County did not provide a response to the State Audit.)

Los Angeles County Department of Mental Health wrote that state law should be amended to "redefine grave disability." Specifically, they wrote: "At a minimum, legislation should address the capacity of an individual to make informed decisions and include criteria regarding the need for significant supervision and assistance, risk for substantial bodily injury, worsening physical health as well as significant psychiatric deterioration and patterns of behavior that threaten the ability of others with whom they interact to live safely in community."

For its part, San Francisco wrote that there is "room for improvement in the LPS Act in order to ensure that those with significant behavioral health needs are able to receive acute care, and not just crisis services, when in need." Specifically, they wrote: "…we recommend that the legislature consider adding language to better define grave disability so that there is consistency across jurisdictions and that the subjectivity that may exist for providers and/or the court is mitigated." They added that there was a need to account for advancements in our "understanding of serious behavioral health needs and impact of psychoactive substances outside of chronic alcohol use."

San Francisco's Mental Health Conservatorships

San Francisco has three types of mental health conservatorships: (1) the LPS conservatorship; (2) Murphy conservatorship for individuals who are defendants in criminal cases, have a mental illness, and are unable to understand the nature of the proceedings; and (3) the housing conservatorship. These conservatorships are administered through the Public Conservator, which is housed in San Francisco's Human Services Agency.[4]

LPS Conservatorships

Traditional Conservatorships

Traditional LPS conservatorships, in which individuals are placed in an appropriate residential setting, are administered by the Public Conservator, who is responsible for decision-making on behalf of the individual during the conservatorship period. Individuals who are under LPS conservatorship may be placed in a variety of settings but are entitled to placement in the least

[3] California State Auditor, Lanterman-Petris-Short Act: California Has Not Ensured That Individuals With Serious Mental Illness Receive Adequate Ongoing Care, Report: 2019-119, http://auditor.ca.gov/pdfs/reports/2019-119.pdf, July 2020.

[4] Also discussed in Appendix I is probate conservatorship for individuals who are unable to provide for their basic needs of food, clothing, and shelter and/or manage their personal finances due to dementia or physical disabilities.

restrictive, most appropriate level of care. Placements range from the most restrictive levels of care, such as locked facilities (e.g., some skilled nursing facilities) to unlocked facilities (e.g., board and care facilities).

San Francisco's Community-Based Conservatorships

San Francisco has two community-based LPS conservatorship service models designed to allow individuals with a mental illness to transition from an acute-care setting directly to a community-based setting without an interim stay in a subacute facility. The models serve individuals who have access to adequate housing, are enrolled in intensive case management, and are prescribed long-acting anti-psychotic medication. The two service models are overseen by the Public Conservator with the Department of Public Health providing services.

Community Independence Participation Program

Individuals who participate in the Community Independence Participation Program are provided with the support and services they need to maintain independence and stability. To be eligible for this program, participants must already be conserved and give up the right to refuse psychotropic medication. For individuals who opt into the voluntary Community Independence Participation Program, a monthly meeting with the court is required.

Post-Acute Community Conservatorship

The Post-Acute Community Conservatorship is intended to help individuals live safely in the community during LPS conservatorship. Participants are distinct from those in the Community Independence Participation Program in that they have not voluntarily complied with their medication requirements or have contested their conservatorship. Individuals placed in the Post-Acute Community Conservatorship program are required by the court to comply with medication requirements.

Medication and Treatment Compliance in Community-Based Programs

According to Public Conservator staff, the care plan and medication adherence for individuals placed in community programs is administered by the outpatient mental health team, which includes an intensive case manager, psychiatric nurse practitioner, and psychiatrist. The deputy conservator oversees the administration of these services.

Individuals placed in the Community Independence Participation Program and Post-Acute Community Conservatorship are placed on an involuntary medication order (Affidavit B) and are prescribed long acting (either monthly or quarterly) psychotropic medication. If an individual refuses medication, the intensive case manager and deputy conservator attempt to encourage acceptance. Individuals who continue to resist medication are taken to Psychiatric Emergency Services for medication administration and then discharged to home.

Housing Conservatorship

The California State Legislature adopted Senate Bill (SB) 1045 in 2018, amended by SB 40 in 2019, establishing a conservatorship program separate from LPS conservatorship that allows three California counties (Los Angeles, San Diego, and San Francisco) to conserve an individual using a

legal standard that is different from grave disability. Under the housing conservatorship program, an individual who is not able to care for their own health or well-being due to severe mental illness and substance use may be placed under conservatorship for a period of six months if services have been offered and refused multiple times. The Board of Supervisors amended the San Francisco Health Code in 2019 to add Division IV authorizing the Housing Conservatorship Program in San Francisco. Division IV sunsets in December 2023 unless the State Legislature extends authorization for local housing conservatorships beyond that date.

The service model provides up to a six-month conservatorship for individuals diagnosed with both a serious mental illness and a substance use disorder who experience at least eight 5150 holds within 12 months. As of June 2021, two individuals were placed into the housing conservatorship pilot program, which requires placement in permanent, clinically appropriate housing upon discharge from conservatorship.

Appendix I provides further details on these programs.

Review and Authorization Process for San Francisco LPS Conservatorships

Placing an individual in an LPS conservatorship is a civil process defined by the California Welfare and Institutions Code. Referrals are initiated by psychiatrists for individuals who present to San Francisco General Hospital or to other acute care hospitals. Referral and placement in LPS conservatorships in San Francisco involve several key actors including the Public Conservator, treating psychiatrists, the Department of Public Health's Utilization Management and Care Coordination team that is responsible for coordinating placement, the Public Defender, and the City Attorney.

The conservatorship process begins at the San Francisco General Hospital's Psychiatric Emergency Services unit or acute inpatient psychiatric units at private hospitals when a patient is placed under a 72-hour involuntary hold, defined by California Welfare and Institutions Code Section 5150 (generally referred to as "5150").[5] Patients who do not stabilize after 72 hours may be held for an additional 14 days under California Welfare and Institutions Code Section 5250. Patients who do not stabilize after the 14-day hold may be held for an additional 30 days under California Welfare and Institutions Code Section 5270.

The referral to conservatorship can be made at any point during or after the initial 5150 hold. The Public Conservator is responsible for evaluating whether the patient meets the definition of gravely disabled for conservatorship proceedings.

The temporary conservatorship always precedes a permanent conservatorship. When a judge approves a temporary conservatorship, the Public Conservator is granted 30 days to investigate and determine whether the patient meets the legal criteria for a permanent LPS conservatorship. The Public Conservator may petition for extensions of a temporary conservatorship, but

[5] California's Welfare and Institutions Code Section 5150 allows an involuntary psychiatric hold for up to 72 hours, and Section 5250 allows an involuntary psychiatric hold for an additional 14 days after the initial 72-hour hold.

extensions may not exceed six months. Permanent conservatorship placements are for a period of one year, with a required annual evaluation to determine whether the patient is no longer gravely disabled and should be discharged.

Patients' Rights to Challenge Involuntary Holds

Psychiatric patients on involuntary psychiatric holds can contest their involuntary holds at any time after the conclusion of a 5150 hold. Attorneys from the Public Defender's Office represent patients who are on a 5150 hold.

The City Attorney represents the Public Conservator and the hospital's treatment team. Probable cause hearings to extend psychiatric holds are held two times per week while court hearings for temporary and permanent LPS conservatorships are held once a week.

Appendix I provides further details on the LPS conservatorship referral and placement process.

Outpatient Referral Pathway

San Francisco implemented an outpatient referral pathway pilot in 2019 extending through June 2021, based on a model piloted in Los Angeles County that allows outpatient clinicians to refer individuals for conservatorship without the need for an inpatient hospitalization. As part of the pilot, the Public Conservator petitioned the Superior Court for LPS conservatorship for 16 individuals based on referrals from outpatient mental health providers. Of these 16 referrals, the Court approved temporary conservatorship for 12 individuals. According to discussions with Public Conservator staff, although the Court generally approves 30-day temporary LPS conservatorships for individuals who are referred while on an inpatient psychiatric hold, judges presiding over these cases exercised a higher level of scrutiny of outpatient referrals; the burden of proof was therefore higher for individuals not already involuntarily detained on a psychiatric hold. After further investigation by Public Conservator staff, the Court approved temporary conservatorship for two of the original 16 outpatient referrals who had not previously been approved.

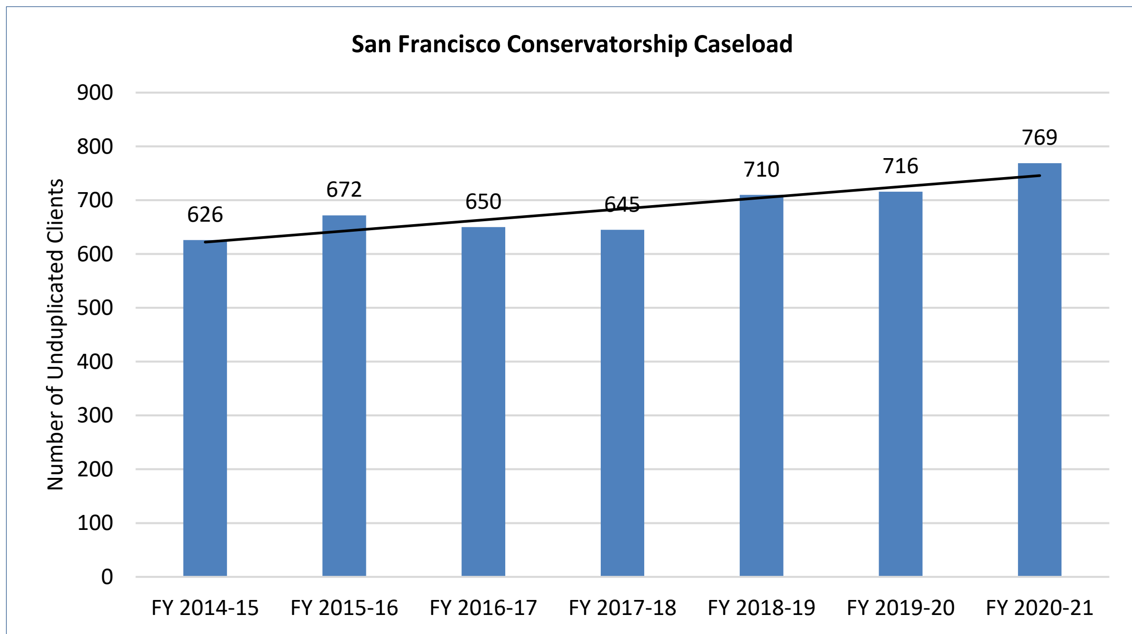
Although the outpatient referral pathway pilot ended on June 30, 2021, Public Conservator staff said they would continue to accept outpatient referrals on a case-by-case basis and have expanded outreach and training to outpatient mental health providers.

San Francisco LPS Conservatorship Caseload

Increase in Conservatorship Caseload Over Last Seven Years

The Public Conservator's caseload for individuals placed in temporary and permanent LPS conservatorship or Murphy conservatorship[6] increased by 23 percent from 626 cases in FY 2014-15 to 769 cases in FY 2020-21, as shown in Exhibit 1 below.[7]

Exhibit 1. Increase in Mental Health Conservatorship Caseload FY 2014-15 to FY 2020-21

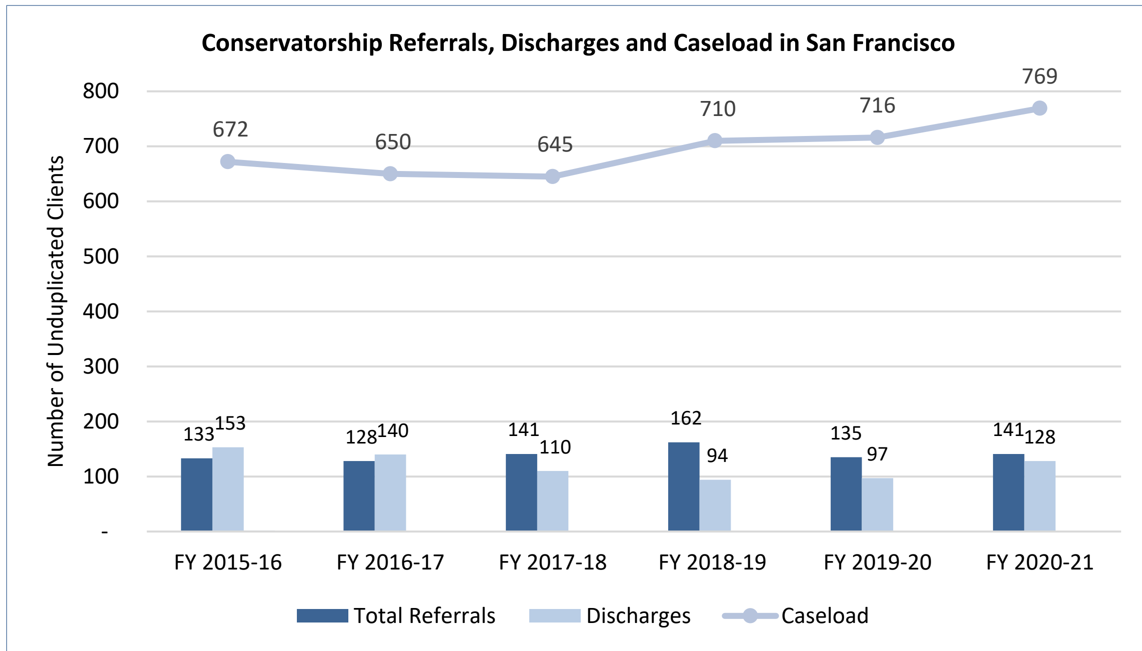


Source: San Francisco Human Services Agency, Department of Disability and Aging Services

The number of referrals exceeded the number of discharges from mental health conservatorship for each of the last four fiscal years, as shown in Exhibit 2 below, driving the increase in conservatorship caseload over the time period.[8] Specifically, referrals grew by 6 percent over the time period, and discharges fell by 16 percent.

[6] Defendants in criminal cases who cannot understand the nature of the proceedings due to mental illness are placed in Murphy conservatorships.
[7] In the five-year period between FY 2014-15 and FY 2018-19, the time period included in the Budget and Legislative Analyst's 2019 report on LPS conservatorships in San Francisco, total LPS and Murphy conservatorship caseload increased by 13 percent from 626 cases in FY 2014-15 to 710 cases in FY 2018-19.
[8] Data on discharges is not available prior to FY 2015-16.

Exhibit 2. Mental Health Conservatorship Referral Compared to Discharges FY 2015-16 to FY 2020-21



Source: San Francisco Human Services Agency, Department of Disability and Aging Services

Diagnosis on Referral to Conservatorship

LPS conservatorships apply specifically to individuals who are gravely disabled due to mental illness or chronic alcoholism. The diagnosis of individuals referred to conservatorship is part of the patient's confidential medical information maintained by the Department of Public Health.[9] Public Conservator staff can view but not edit or extract diagnostic and other confidential patient information, and therefore do not maintain statistics on diagnoses, whether due to mental illness or chronic alcoholism.[10]

Discharges from Involuntary Holds and Conservatorship

Treatment on Discharge from 72-hour Psychiatric Holds

According to the July 2020 State Audit report, "San Francisco's lack of coordination with medical facilities has often left individuals who are released from involuntary holds without connections to county mental health treatment services." The State Auditor reviewed individuals with five or more 72-hour psychiatric holds between FY 2015-16 and FY 2017-18 and found that only approximately 5 percent of individuals with multiple psychiatric holds (approximately 10 individuals out of a population of 200) received intensive services, such as full-service

[9] Conservatorship proceedings in San Francisco are held in closed courtrooms to protect the privacy of the individual.

[10] Public Conservator staff did not know of studies indicating the prevalence of alcoholism among individuals referred to LPS conservatorship.

partnership,[11] after discharge from a psychiatric hold. According to the State Auditor, based on a detailed review of six individuals with multiple psychiatric holds, San Francisco did not follow up within two weeks to offer supportive services to four individuals after discharge from psychiatric holds; two individuals returned to incarceration at the end of their hold. According to the State Auditor, San Francisco representatives indicated that some individuals do not participate in voluntary intensive services after discharge from psychiatric holds but may have been referred to other services; however, the auditors expected a higher percentage of individuals to be connected to intensive services. The State Auditor also reported that while San Francisco Department of Public Health staff can identify individuals discharged from psychiatric holds at San Francisco General Hospital, no process is available to identify individuals discharged from psychiatric holds at other hospitals.[12,13]

The State Audit report, which recommended that San Francisco adopt a systematic approach to identify individuals placed on multiple psychiatric holds, was completed prior to the implementation of Mental Health SF and establishment of the Office of Coordinated Care, which according to San Francisco's response to the audit, aims to provide care coordination and wrap around services to individuals. According to our discussions with Department of Public Health staff, the Office of Care Coordination will provide case management and referrals to services for individuals discharged from psychiatric holds but has not yet hired sufficient staff to provide these services.

Treatment on Discharge from LPS Conservatorship

The State Audit report did not address discharges from LPS conservatorship. According to discussions with Public Conservator staff, prior to termination of conservatorship, individuals must be housed at an appropriate level of care, compliant with psychotropic medications, and engaged in outpatient treatment. According to our discussions with Department of Public Health staff, the goal is to provide case management, placement, and medication management to individuals discharged from LPS conservatorship, but participation in these services is voluntary. The Department's policy is to work with individuals who decline services to encourage their

[11] Full-service partnership is a service model funded through the Mental Health Services Act, which assists with access to housing, employment, and education in addition to providing intensive behavioral health services. According to discussions with DPH staff, the State Audit focused on programs funded by the Mental Health Services Act but not other intensive case management programs administered by DPH.

[12] According to the June 2020 State Audit report, San Francisco cannot track when individuals are discharged by a private hospital from a psychiatric hold to a lower-level facility operated by the County. According to discussions with DPH staff, DPH representatives have met with the Hospital Council to identify ways to better coordinate and share information.

[13] In the response to the June 2020 State Audit report, the Director of Health agreed with the recommendation to "adopt a systemic approach to identifying individuals placed on multiple involuntary holds in its county-designated facilities, obtaining information about those individuals, and connecting them to services that support their ongoing mental health," and identified Mental Health SF and Office of Care Coordination as ways to achieve this recommendation.

participation, but the Department does not track data on individuals who decline services on discharge from LPS conservatorship.[14]

According to Public Conservator staff, some number of individuals "cycle" through conservatorship; in FY 2019-20 approximately 9 percent of individuals referred to conservatorship had been under LPS conservatorship in the prior year. Of the LPS caseload on June 30, 2021, more than half (58 percent) had a previous conservatorship episode, as shown in Exhibit 3 below.

Exhibit 3. Number of Individuals in Mental Health Conservatorship with Previous Episodes as of June 30, 2021[15]

Conservatorship Episodes	Number	Percent
No previous episode	272	42%
1 previous episode	145	23%
2-5 previous episodes	167	26%
6-10 previous episodes	47	7%
10+ previous episodes	12	2%
Total	**643**	**100%**

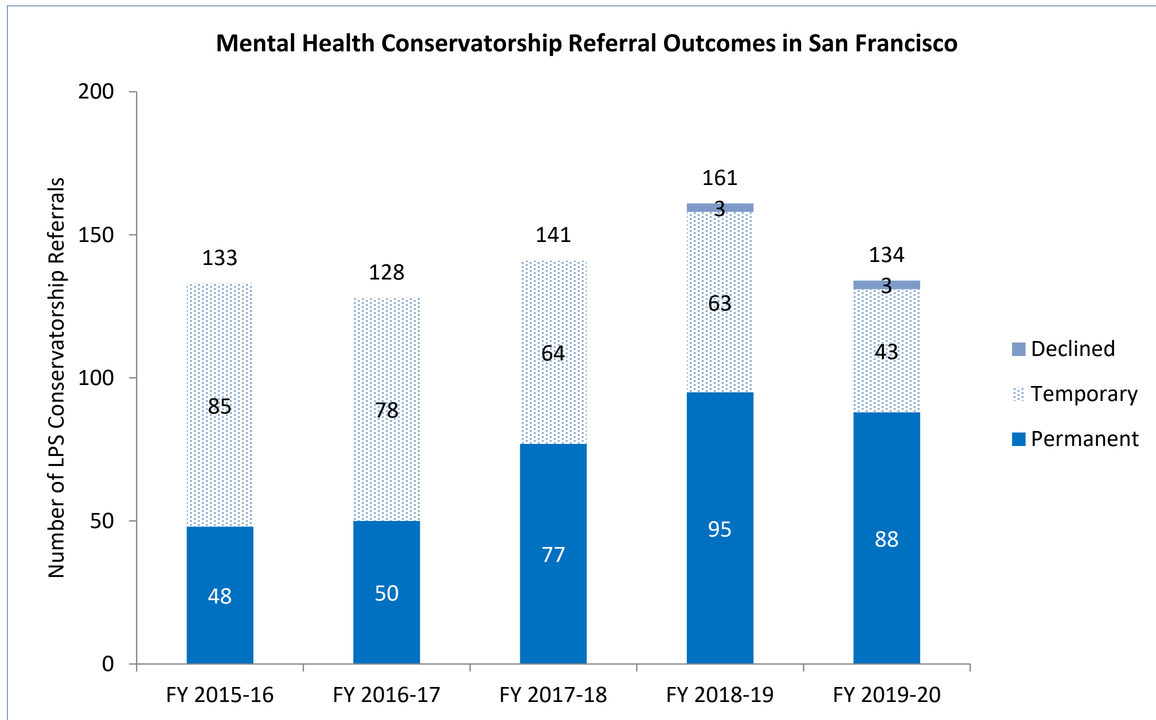
Source: Public Conservator

Increase in Referrals Resulting in Permanent Conservatorship

The total number of LPS Conservatorship referrals remained relatively flat from FY 2015-16 through FY 2019-20; however, referrals resulting in permanent conservatorship increased from 48 in FY 2015-16 to 88 in FY 2019-20, offset by a reduction in referrals resulting in temporary conservatorships, as shown in Exhibit 4 below.

[14] According to discussions with DPH staff, the Department does not have a legal reason to follow up and monitor individuals unless they participate in Department services or have a subsequent crisis episode.
[15] The total mental health conservatorship caseload of 643 is a point in time on June 30, 2021, which differs from total caseload of 769 over the course of the fiscal year.

Exhibit 4. Increase in Referrals Resulting in Permanent Conservatorship FY 2015-16 to FY 2019-20[16]



Source: San Francisco Human Services Agency, Department of Disability and Aging Services

Notes: (1) The number of referrals could include individuals who were referred more than one time and includes both LPS conservatorship and Murphy conservatorship for defendants in criminal cases. (2) Outcomes categorized as "declined" refer to cases that were declined by the Public Conservator because the individual was not a county resident, was released from a 5150 hold, the referral was incomplete, or other reasons. (3) In FY 2018-19 and FY 2019-20, one referral in each fiscal year won writ of habeas corpus, a petition challenging the conservatorship or the conditions of confinement on a conservatorship.

In FY 2020-21, 141 individuals were referred to the Public Conservator, of which five were declined due to missing key information, residence in another county, not meeting the basic criteria for conservatorship, or other reasons. Whether the conservatorship was approved as a temporary or permanent conservatorship was not yet known at the end of FY 2020-21 because some cases were still undergoing the Court review process.

Impact of California Welfare and Institutions Code Section 5270

The number of referrals resulting in temporary conservatorships decreased by 49 percent from FY 2015-16 through FY 2019-20, as shown in Exhibit 4 above. According to discussions with City

[16] The data provided by the Department of Disability and Aging Services did not identify the number of referrals in FY 2020-21 resulting in temporary and permanent conservatorships; because 30-day temporary conservatorships may be renewed for up to six months, some temporary conservatorships established in FY 2020-21 could become permanent conservatorships in FY 2021-22. This caseload includes LPS, Murphy, and housing conservatorship.

staff, the reduction in referrals resulting in temporary conservatorships was due largely to the introduction in FY 2014-15 of the 30-day hold for psychiatric patients allowed by the California Welfare and Institutions Code Section 5270. The introduction of the 30-day hold allowed hospitals to keep patients for a longer period without referral to conservatorship; the mental health condition for many patients improved under the 30-day hold because of the intensive clinical supervision and abstinence from alcohol and drug consumption.

Projected Need for Mental Health Treatment Beds

San Francisco has identified the need for more mental health treatment beds. The City's FY 2018-19 and FY 2019-20 budgets included excess Educational Revenue Augmentation Fund monies to pay for additional locked subacute beds, and the City's FY 2021-22 and FY 2022-23 budgets include approximately $30 million in ongoing Proposition C funds to pay for additional beds.

After the completion of the Budget and Legislative Analyst's November 2019 *Review of Lanterman-Petris-Short (LPS) Conservatorship in San Francisco* report, the Board of Supervisors adopted Mental Health San Francisco in December 2019 with a goal of providing access to mental health services, substance use treatment, and psychiatric medications to all adult residents of San Francisco with mental illness and/or substance use disorders who are homeless, uninsured, or enrolled in Medi-Cal or Healthy San Francisco. In June 2020, the Department of Public Health released a report on the results of a bed optimization simulation with a third-party modeling vendor to help answer how many beds are needed to maintain the flow of patients and reduce adult client wait times to zero. Their analysis utilized FY 2018-19 billing data and bed information to model utilization of beds and then create a hypothetical scenario of how increased capacity would improve patient flow. Exhibit 5 below reflects the report's recommendations on where to increase capacity.

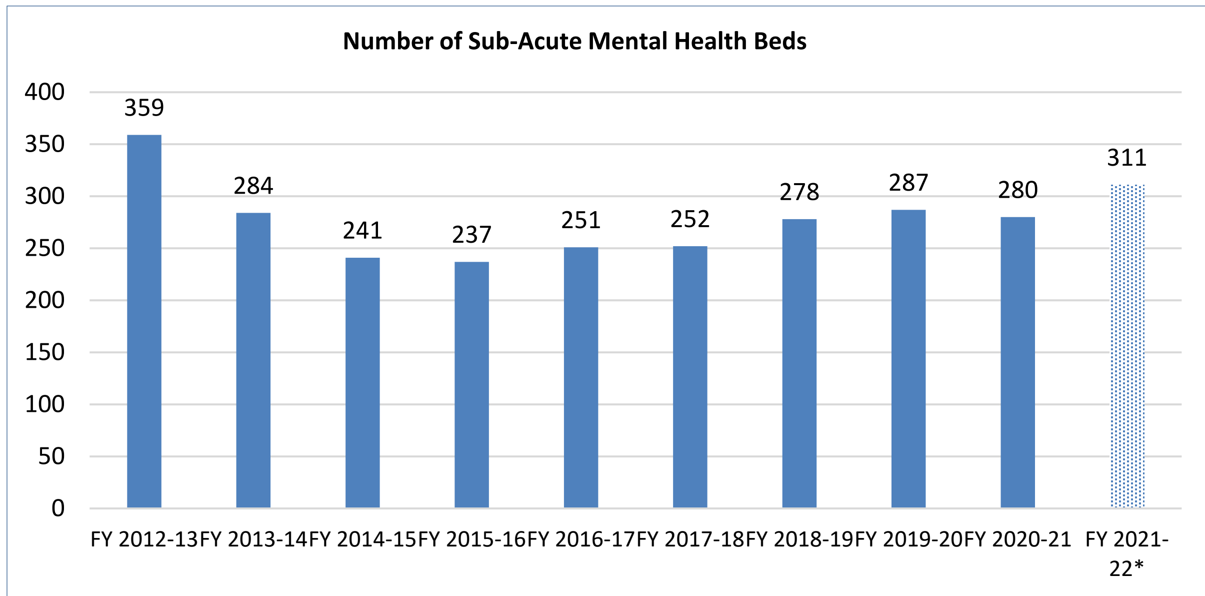
Exhibit 5. Recommended Bed Counts to Decrease Patient Wait Times

Bed Category	Average Wait Time (Days)	Bed Count Increase	
		Zero Wait Time	50% Wait Time Reduction
Locked Subacute Treatment	62	31	20
Psychiatric Skilled Nursing Facilities	121	13	8
Residential Care Facility (Board and Care)	60	31	13
Residential Care Facility for the Elderly	44	22	9

Source: DPH, "Behavioral Health Bed Optimization Project: Analysis and Recommendations for Improving Patient Flow," June 2020.

The number of locked subacute beds increased slightly between FY 2018-19 and FY 2020-21, as shown in Exhibit 6 below. The Department of Public Health expects to add 31 additional locked subacute beds in FY 2021-22, consistent with the recommendation from the bed optimization simulation.

**Exhibit 6: Number of Subacute Mental Health Beds
FY 2012-13 to FY 2020-21**



Source: DPH

Note: Subacute beds include psychiatric skilled nursing and locked subacute beds.

*The 311 subacute beds in FY 2021-22 include 31 locked subacute beds to be acquired in the fiscal year; as of November 2021, 20 of the 31 locked subacute beds had been acquired (see Exhibit 7 below). The Department planned for an additional 13 psychiatric skilled nursing beds in FY 2021-22, none of which had been acquired as of November 2021.

The Mayor announced in July 2021 a plan to add 408 new mental health beds; the description and status of these 408 beds are shown in Appendix VI.

The City has two pathways for adding mental health bed capacity:

- Purchasing a facility for mental health treatment beds. This approach takes longer than the alternative of contracting with an outside vendor. Purchasing a facility requires identifying an appropriate building and negotiating the purchase, planning, and implementing necessary site and building improvements to meet state and other requirements, and contracting with an operator. Purchasing allows the City to locate the facility in or near San Francisco, and to ensure placement of City referrals.
- Contracting with outside providers for mental health treatment beds. This approach can be completed faster than procuring a facility. Many of these facilities are out-of-county, and because contracts with providers do not dedicate a specific number of beds to San Francisco referrals, the City must compete with other counties for placement. According to discussions with Department of Public Health staff, historically, San Francisco referrals are higher acuity than other counties, placing San Francisco at a disadvantage in placing patients in out-of-county facilities.

Of the 408 new mental health beds, 137 beds (or approximately one-third) are locked subacute beds, psychiatric skilled nursing facility beds, enhanced board and care[17], and board and care beds, which would provide placement options for individuals who are conserved depending on patient acuity. However, most individuals who were conserved on June 30, 2021 (412 of 623 individuals conserved on that date, or 64 percent) were in acute inpatient, jail, locked subacute, or psychiatric skilled nursing facilities.[18] Of the 408 new mental health beds, approximately 11 percent (44 beds) are locked subacute and psychiatric skilled nursing beds, which is the appropriate placement for most individuals who are conserved.

Exhibit 7: Mental Health Bed Expansion Goals in FY 2021-22

Bed Type	Description	Expansion Goal	Newly Opened in FY 2021-22
Psychiatric Skilled Nursing Facility	Out-of-county secure 24-hour medical care for people with chronic mental health conditions	13	0
Locked Subacute Treatment	Out-of-county psychosocial rehabilitation for people who are conserved in a locked setting	31	20
12-month Enhanced Board and Care	Pilot, out-of-county supervised living and treatment for people with chronic mental health illness and/or coming from locked facilities	20	20
Residential Care Facility (also known as Board and Care)	Supervised residential program for individuals with mental health issues who require assistance with activities of daily living	73	0
Subtotal		**137**	**40**

Source: Department of Public Health Dashboard as of September 15, 2021

According to Department of Public Health staff, the City began moving patients into the 12-month enhanced board and care facility in mid-September 2021. As of mid-October 2021, 10 of the 20 beds were occupied. The City has procured 20 of the 31 locked subacute beds and as of mid-October 2021 placed 16 patients referred from San Francisco General Hospital, jail, and other facilities.

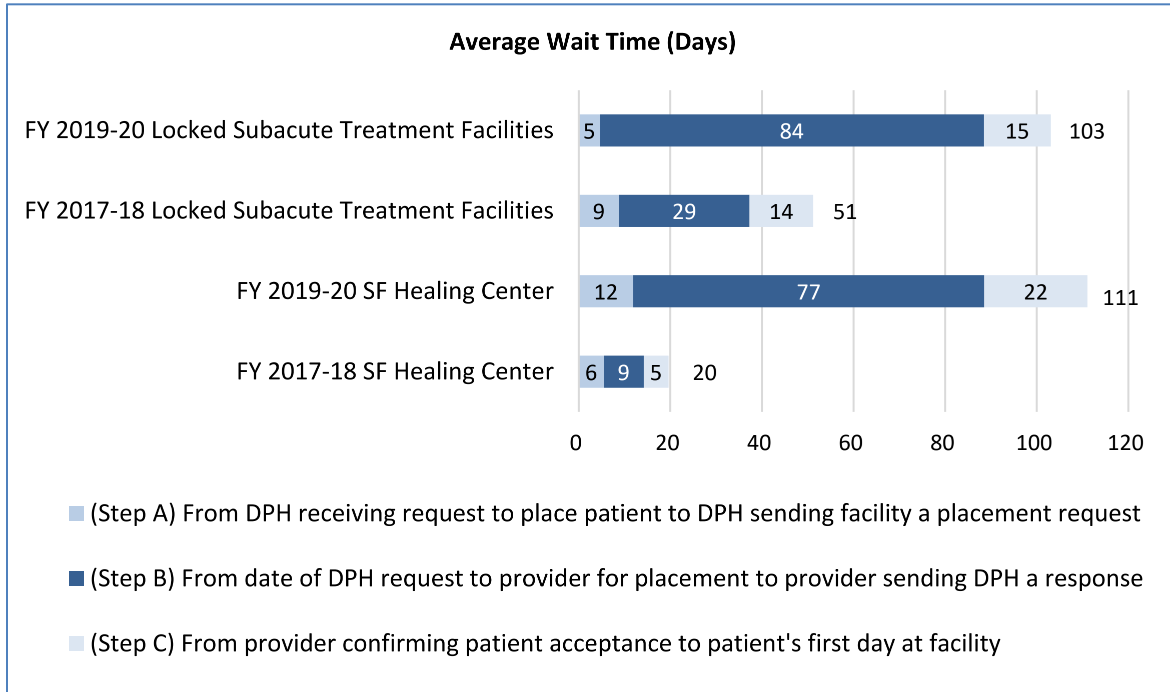
Increase in Wait Times

Wait times in FY 2019-20 for mental health beds, the most recent year for which data was available, increased compared to FY 2017-18. Wait times in FY 2019-20 for all patients, including

[17] Enhanced board and care have onsite providers and staff support; these facilities are not locked but have limited egress.
[18] Placement information is shown in Exhibit 12 in Appendix II.

LPS patients, ranged from 73 days for skilled nursing facilities to 111 days for the San Francisco Healing Center[19], as shown in Exhibit 8 below.

Exhibit 8. Average Wait Time (Days) for Locked Subacute Beds FY 2017-18 and FY 2019-20



Source: Department of Public Health
Note: According to DPH, the initial wait period in Step A of Exhibit 8 above could in some instances be due to an incomplete referral packet from the requestor.

Average wait times for the San Francisco Healing Center increased from 19.6 days in FY 2017-18 to 111 days in FY 2019-20, and for other locked subacute facilities from 51 days to 103 days.[20] According to DPH staff, the increase in average wait times in FY 2019-20 was due to lack of turnover and availability of beds, and the impact of the COVID-19 pandemic.

Wait times in FY 2017-18 for admittance to a state hospital were nearly one year; in FY 2019-20, the state hospitals were full and did not accept any patients from San Francisco.

[19] The San Francisco Healing Center is a 54-bed facility at St. Mary's Hospital.
[20] According to discussions with DPH staff, average wait times of 20 days for admission to the San Francisco Healing Center were due to the availability of beds in FY 2017-18 when the Healing Center opened; the increase in wait times in FY 2019-20 was due to the full occupancy and low turnover of Healing Center beds. Wait times for other skilled nursing facilities reduced from 78 days in FY 2017-18 to 72 days in FY 2019-20.

Population in Need of Conservatorship

According to discussions with City staff, estimating the population in need of LPS conservatorship is difficult because individuals with severe mental illness or alcoholism do not consistently meet the definition of gravely disabled. As an example of the population at risk, in FY 2019-20, 314 high users of emergency and urgent services[21] had been admitted to Psychiatric Emergency Services at least eight times and placed on a 72-hour hold at least three times during the year.

Policy Consideration

San Francisco had a higher conservatorship caseload per 10,000 residents in FY 2020-21 than other large California counties in our survey. The San Francisco conservatorship caseload of 769 in FY 2020-21 was at the highest point in the six years between FY 2015-16 and FY 2020-21. Annual conservatorship referrals ranged from 133 in FY 2015-16 to 141 in FY 2020-21. The percentage of referrals resulting in permanent conservatorship increased from 36 percent in FY 2015-16 to 66 percent in FY 2019-20 following the implementation of the 30-day psychiatric hold under California Welfare and Institutions Code 5270. The number of discharges fell below the number of referrals beginning in FY 2017-18, contributing to the increase in caseload.

Although estimating the number of individuals in San Francisco who meet the definition of grave disability is not possible, as an example of the population at risk, in FY 2019-20, 314 high users of emergency and urgent services had been admitted to Psychiatric Emergency Services at least eight times and placed on a 72-hour hold at least three times during the year.

Lack of mental health treatment beds impacts referrals to conservatorship.

One academic report found that perceptions of the availability of treatment beds affected conservatorship referrals.[22] The June 2020 State Auditor report found that a shortage of beds in state hospitals, which treat the most critically ill patients and have wait times of one year or longer, compromised treatment for some individuals placed in LPS conservatorship. At the same time, the state hospitals reported 138 individuals in an LPS conservatorship who could not be discharged from the state hospitals to a lower level of care due to a lack of beds statewide.

Many individuals who are conserved require placement in psychiatric skilled nursing and locked subacute beds, but the number of beds available to San Francisco patients only increased from 278 in FY 2018-19 to 280 in FY 2020-21. Average wait times for placement in locked subacute beds increased from approximately 20-50 days in FY 2017-18 to more than 100 days in FY 2019-20.

[21] "High users" are the top one percent of individuals accessing emergency and urgent services during the year, which in FY 2019-20 were 506 individuals. Of these 506 individuals, 14 were currently assigned to a conservator and 38 had any history of conservator assignment.
[22] Barnard, Alex V. Draft Report "Absent Authority: Evaluating California's Conservatorship Continuum," https://drive.google.com/file/d/1H-hKxnd-xwNXap05VZPxSkAJT92ZzHN-/view, Feb. 2021

San Francisco's goal is to add 408 mental health treatment beds of which 44 beds or approximately 11 percent are in psychiatric skilled nursing and locked subacute facilities. The Department of Public Health established the Mental Health SF New Beds & Facilities team to facilitate the contracting or purchasing of new beds, but many of these beds are contracted with providers out-of-county, and San Francisco must compete with other counties for placements. Directly purchasing beds would give San Francisco more control over location and placements but purchasing and rehabilitating a facility is a long process.

Recommendation: The Board of Supervisors should request the Director of Public Health to present an update prior to June 2022 on the purchase or contracting of these 408 beds, including a timeline for completing purchase or contracting, potential or known barriers to purchase or contracts and action to address these barriers, and occupancy of these beds and impact on wait times for types of beds.

Individuals discharged from psychiatric holds are not systematically connected to outpatient care, and individuals discharged from conservatorship who decline ongoing care are not systematically tracked.

According to the July 2020 State Audit report, "San Francisco's lack of coordination with medical facilities has often left individuals who are released from involuntary holds without connections to county mental health treatment services." According to the State Auditor, San Francisco representatives indicated that some individuals do not participate in voluntary intensive services after discharge from psychiatric holds but may have been referred to other services. The State Audit report, which recommended that San Francisco adopt a systematic approach to identify individuals placed on multiple psychiatric holds, was completed prior to the implementation of Mental Health SF and establishment of the Office of Coordinated Care, which according to San Francisco's response to the audit, aims to provide care coordination and wrap around services to individuals. According to our discussions with Department of Public Health staff, the Office has not yet hired sufficient staff to provide these services.

The State Audit report did not address follow up care for individuals discharged from LPS conservatorship; according to our discussions with Department of Public Health staff, the goal is to provide case management, placement, and medication management to these individuals but participation in services is voluntary. The Department's policy is to work with individuals who decline services to encourage their participation, but the Department does not track data on individuals who decline services upon discharge from LPS conservatorship. The mental health status of individuals who are discharged from conservatorship can deteriorate, resulting in repeated referrals and subsequent conservatorship episodes. In FY 2019-20, approximately 9 percent of individuals referred to conservatorship had been under LPS conservatorship in the prior year. Of the LPS caseload on June 30, 2021, more than half (58 percent) had a previous conservatorship episode.

The Budget and Legislative Analyst's November 2019 *Review of Lanterman-Petris-Short (LPS) Conservatorship in San Francisco* report recommended that, to better evaluate outcomes for individuals placed in temporary psychiatric holds or conservatorship, the Department of Public Health and Public Conservator should establish (1) a Memorandum of Understanding (MOU) on their respective roles and responsibilities, and (2) a data sharing agreement to allow access to and reporting on data for individuals placed in LPS conservatorship. The departments have established the data sharing agreement, but the MOU has not been finalized.

Recommendation: The Board of Supervisors should request the Director of Public Health present a report on (a) the implementation of the State Auditor's recommendation to implement a systematic approach to identifying individuals released from psychiatric holds and connecting these individuals to services, and (b) implementation of the Office of Care Coordination, including hiring of staff, establishment of case management and service coordination for individuals discharged from psychiatric holds and conservatorship, and tracking of individuals after discharge. This report can correspond to the Department's response to the State Audit.

Recommendation: The Board of Supervisors should request the Director of Public Health and Public Conservator to report prior to June 2022 on the timeline and process for implementing a Memorandum of Understanding on their respective roles and responsibilities to better evaluate outcomes for individuals placed in temporary psychiatric holds or conservatorship.

Appendix I: Mental Health Conservatorships in San Francisco

Types of Conservatorships

Lanterman-Petris-Short (LPS) Conservatorship

The Lanterman-Petris-Short (LPS) Act of 1967 implemented Section 5000 of the State of California's Welfare and Institutions Code, establishing a uniform and state-wide civil process for the involuntary detention of people considered gravely disabled due to a serious mental health diagnosis and/or chronic alcoholism. California's Welfare and Institutions Code defines "gravely disabled" as an individual who is unable to provide for his or her basic personal needs for food, clothing, or shelter.[23] The LPS Act authorizes local courts to determine whether individuals are gravely disabled and would benefit from conservatorship, and to appoint a public conservator who would be responsible for decision-making on behalf of the individuals placed into conservatorship and for their well-being during the conservatorship period. The LPS Act became effective on July 1, 1969 and does not apply to individuals who suffer primarily from substance use disorders, with the exception of chronic alcoholism.

LPS is widely considered to be precedent setting in its modernization of procedures for the commitment of gravely disabled individuals with serious mental health diagnoses and/or chronic alcoholism in the United States.[24] The primary intent of the LPS Act was to:

- End the inappropriate, indefinite, and involuntary commitment of people living with mental illness, developmental disabilities, and chronic alcoholism;
- Establish a procedure for civil commitment involving graduated periods of involuntary detention and due process rights to allow individuals to contest their confinement;
- Provide prompt evaluation and treatment of persons with serious mental health diagnoses and/or chronic alcoholism;
- Protect public safety;
- Provide individualized treatment, supervision, and placement services;
- Encourage the full use of all existing agencies, professional personnel, and public funds to accomplish objectives and to prevent duplication of services and unnecessary expenditures; and
- Protect individuals with severe mental health diagnoses from criminal acts.

The LPS Act specifies that individuals have a right to contest or challenge involuntary treatment at any time during conservatorship.[25] Furthermore, individuals who are placed in an LPS conservatorship are expected to improve their mental health over time. To enable this outcome,

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[23] State of California, Welfare and Institutions Code, Division 5, Section 5008(h)(B)(2).

[24] The LPS Act was co-authored by California State Assemblyman Frank Lanterman and California State Senators Nicholas C. Petris and Alan Short.

[25] State of California, Welfare and Institutions Code, Division 5, Section 5003 (WIC § 5003).

the LPS Act requires an annual evaluation of all individuals placed in conservatorship to determine readiness for discharge from conservatorship.

Murphy Conservatorship

Under the California Penal Code and the LPS Act, the Superior Court is authorized to order an investigation into whether a defendant is gravely disabled[26], if the defendant is deemed incompetent to stand trial and they served their maximum term of commitment or are found to be unlikely to regain trial competency.

A defendant can be placed under a Murphy Conservatorship if (1) charged with felonies involving death, great bodily harm or a serious threat to the physical well-being of another person; and (2) there has been a finding of probable cause that as a result of a mental health disorder the person is unable to understand the nature and purpose of proceedings taken against him or her and to assist counsel in the conduct of their defense in a rational manner; and (3) the person represents a substantial danger of physical harm to others by reason of a mental disease, defect or disorder.

Probate Conservatorship

LPS conservatorships differ from probate conservatorships. The California Probate Code[27] authorizes the Superior Court to appoint a conservator for adults who are unable to provide for their basic needs of food, clothing, and shelter, and/or manage their personal finances due to dementia or physical disabilities.

Mental Health Conservatorship in San Francisco

San Francisco has three LPS conservatorships models - the traditional LPS conservatorship, in which individuals are placed in an appropriate residential setting and two community service models for individuals able to live in less restrictive settings - and the housing conservatorship pilot program. These conservatorships are administered through the Public Conservator, which is housed in San Francisco's Human Services Agency.

LPS Conservatorship

Traditional LPS Conservatorship

The traditional LPS conservatorship program is for individuals who are deemed by the courts to be gravely disabled by mental illness or severe alcoholism. The LPS program is administered by the Public Conservator, who is responsible for decision-making on behalf of the individual during the conservatorship period. Individuals who are under LPS conservatorship may be placed in a

[26] Murphy Conservatorship's standard for "gravely disability" comprise: 1) a criminal defendant who has been found mentally incompetent; 2) an indictment or information that charges a felony involving death, great bodily harm, or serious threat to the physical well-being of another and that has not been dismissed; 3) defendant's inability to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational way as a result of a mental disorder; and 4) by reason of a mental disease, defect, or disorder the person represents a substantial danger of physical harm to others.

[27] State of California, Probate Code, Division 4, Part 3, Section 1800.

variety of settings but are entitled to placement in the least restrictive, most appropriate level of care. Placements range from the most restrictive levels of care, such as locked facilities (e.g., locked sub-acute treatment facilities or psychiatric skilled nursing facilities), to unlocked facilities (e.g., board and care facilities).

San Francisco's Community-Based Conservatorships

San Francisco has two service models designed to support individuals with a mental illness to transition directly from an acute care setting directly to a community-based setting without an interim stay in a sub-acute facility. Individuals placed in the community-based settings have access to adequate housing, are enrolled in intensive case management, and are prescribed long-acting anti-psychotic medication. The two service models are overseen by the Public Conservator with collaboration from the Department of Public Health to provide needed services.

- Community Independence Participation Program

San Francisco implemented the Community Independence Participation Program in 2012, initially as a pilot. Participation in the Community Independence Participation Program is voluntary; to be eligible for this program, participants must already be conserved and give up the right to refuse psychotropic medication.

Program eligibility is based on an assessment that the individual is generally stable when adhering to their psychotropic medication regimen. The Public Defender, City Attorney (formerly the District Attorney), Public Conservator, and/or service providers must reach consensus to include a person in the program. For individuals who opt into the voluntary Community Independence Participation Program, a monthly meeting with the court is required.

- Post-Acute Community Conservatorship

Post-Acute Community Conservatorship is another service model specific to San Francisco that places individuals in the community. Participants are distinct from those in the Community Independence Participation Program in that they have not voluntarily complied with their medication requirements or have contested their conservatorship. However, clinicians recognize that when compliant with their medication requirements, these individuals can successfully reside in a community-based setting. For these reasons, the Public Conservator recommends that the Superior Court require medication compliance for patients enrolled in the Post-Acute Community Conservatorship program.

Housing Conservatorship

The Board of Supervisors approved the Housing Conservatorship Program in July 2019 after the State Legislature adopted SB 1045, enabling San Francisco to implement the program. In its response to the State Audit of the LPS Act, the directors of the Department of Public Health and the Department of Disability and Aging Services described housing conservatorship as "attempt[ing] to address some of the gaps in the LPS Act that behavioral health professionals struggle with."

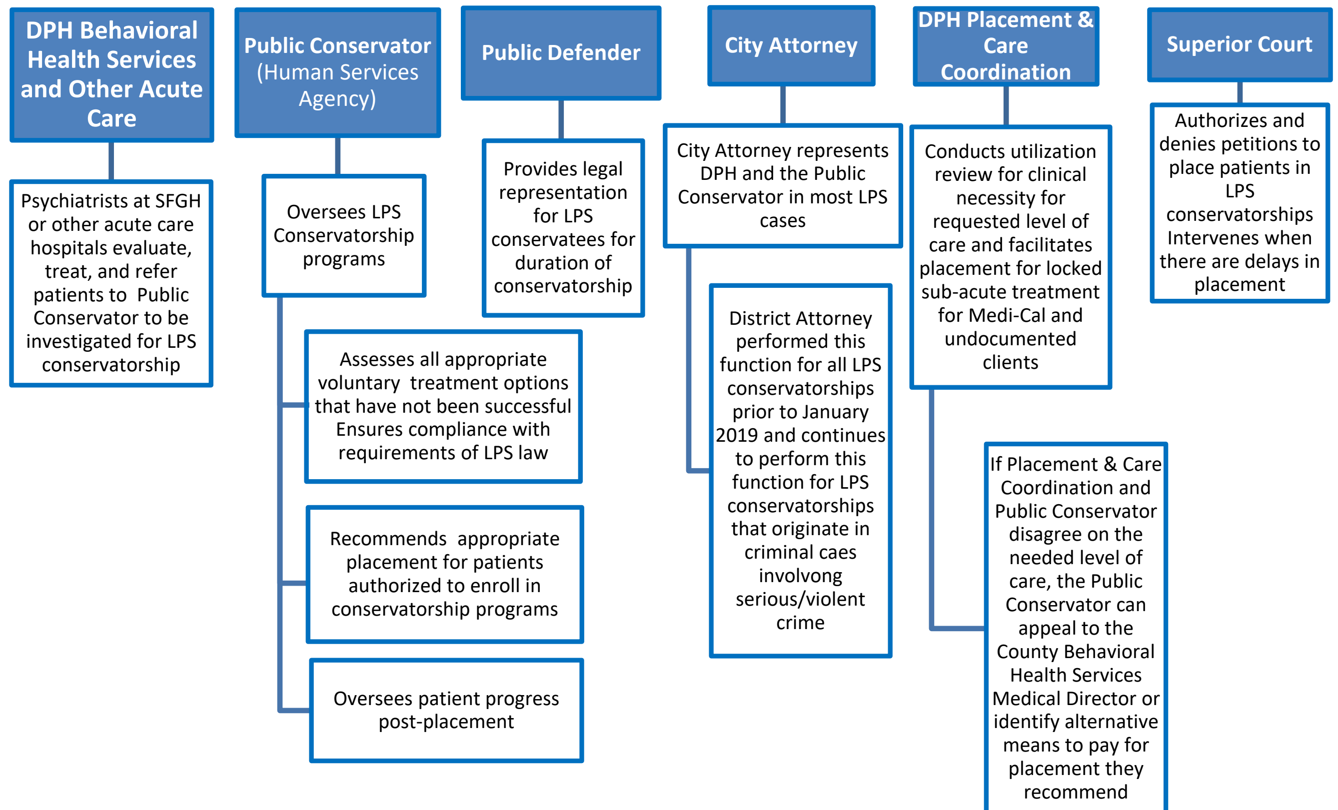
Referrals to housing conservatorship may come from the Sheriff, Directors of Health and Human Services Agency, or from hospitals or psychiatric facilities providing intensive treatment. The housing conservatorship differs from traditional LPS conservatorship in that it must be documented that individuals were offered voluntary mental health treatment and housing options prior to referral to conservatorship by the Public Conservator. Housing conservatorships provide due process protections and the right to be represented by a public defender.

The Board of Supervisors established a Housing Conservatorship Working Group to evaluate the overall effectiveness of housing conservatorship in San Francisco. The first conservatorships under this provision were granted beginning in calendar year 2021; two individuals were in housing conservatorship as of June 30, 2021.

Review and Authorization for San Francisco LPS Conservatorships

Placing an individual in an LPS conservatorship is a civil process defined by the California Welfare and Institutions Code. Referrals are initiated by psychiatrists for individuals who present to San Francisco General Hospital, other acute care hospitals, or jail. Referral and placement in LPS conservatorships in San Francisco involve several key actors including the Public Conservator (Human Services Agency/ Department of Disability and Aging Services), treating psychiatrists, the Department of Public Health's Placement and Care Coordination team responsible for coordinating placement, the Public Defender, and the City Attorney, as shown in Exhibit 9 below.

Exhibit 9. Key Actors in the Lanterman-Petris-Short Act (LPS) Conservatorship Review and Authorization Process



Source: Interviews with the Public Conservator (Human Services Agency), the Public Defender, Department of Public Health, City Attorney, and District Attorney.

The conservatorship process begins at the San Francisco General Hospital's Psychiatric Emergency Services unit or acute inpatient psychiatric units at private hospitals when a patient is placed under a 72-hour involuntary hold, defined by California Welfare and Institutions Code Section 5150 (generally referred to as "5150").[28] Exhibit 10 below shows the steps prior to the LPS conservatorship.

[28] California's Welfare and Institutions Code Section 5150 allows an involuntary psychiatric hold for up to 72 hours, and Section 5250 allows an involuntary psychiatric hold for an additional 14 days after the initial 72-hour hold. Referrals from a jail setting do not require a client to be placed on an involuntary hold.

Exhibit 10. Mandatory Civil Process to Initiate LPS Conservatorship

Patients can contest holds at any time and be placed at lower levels of care at any time, if appropriate

Step	Details
Psychiatric Emergency Services (PES) or other acute setting initiates or receives patients on **5150 Hold (72 hours)**	• 5150 hold: for patients deemed to be gravely disabled and a danger to themselves and/or others. • If patient stabilizes within 72 hours, patient is discharged.
Acute inpatient initiates **5250 Hold** (**Additional 14 days**)	• If 5150 hold expires and treating psychiatrist determines patient is still gravely disabled, can initiate 5250 hold for up to an additional 14 days. Patients who appear to need a 5250 hold are scheduled for admission to the acute inpatient unit. • If patient stabilizes, patient is discharged.
Acute inpatient initiates **5270 Hold** (**Additional 30 days**)	• If 5250 hold expires and patient has not stabilized, can initiate 5270 hold for up to 30 days • Can refer patients to Public Conservator for temporary conservatorship at this stage or at any point during or after the initial 5150 hold. • If patient stabilizes, patient is discharged.
If psychiatrist determines patient is still gravely disabled, refers patient to the Public Conservator to determine if a temporary conservatorship is appropriate (**5352.1 status**)	• If 5270 has expired or close to expiration and patient has not stabilized, can refer to Public Conservator for temporary conservatorship determination. • Public Conservator investigates whether patient meets gravely disabled criteria. • If patient stabilizes **or** does not meet grave disability criteria, patient is discharged.
(5352.1) Public Conservator investigation finds grave disability. District Attorney petitions the Superior Court to grant temporary conservatorship (**Additional 30 days**)	• If Superior Court agrees, Court grants temporary conservatorship of 30 days, and can extend up to six months. The patient can be placed in the clinically appropriate level of care pending the permanent conservatorship hearing. • If Superior Court denies petition for temporary conservatorship, patient is discharged. • Public Defender represents patients at hearings for temporary conservatorship and City Attorney represents Public Conservator and DPH.
5008(h)(1)(a) hearing for one-year conservatorship establishes permanent conservatorship	• If Superior Court denies petition for permanent conservatorship, patient is discharged. • If Superior Court approves petition, the patient is placed in the clinically appropriate level of care. • Public Defender represents patients at hearings for permanent conservatorship and City Attorney represents Public Conservator and DPH. • Annual psychiatric evaluation to determine readiness for discharge.

Source: State of California, Welfare and Institutions Code and interviews with County staff from the Department of Public Health, Public Conservator (Human Services Agency), District Attorney, City Attorney, and Public Defender.

According to the Department of Public Health, the Placement and Care Coordination team can assess and authorize the clinically appropriate level of care for the individual at any point in the process.[29]

According to the Public Conservator, the referral to conservatorship can be made at any point during or after the initial 5150 hold. The Public Conservator is responsible for evaluating whether the patient meets the definition of grave disability for conservatorship proceedings. Key additional elements of the investigation include establishing whether conservatorship is the most appropriate and least restrictive intervention available and searching for family members who may serve as conservator. The Public Conservator monitors the patient's clinical status and can initiate proceedings to terminate conservatorship at any time that the clinicians determine the patient is no longer gravely disabled. As noted above, the LPS conservatorship status is evaluated and renewed at least annually.

Patients' Rights to Challenge Involuntary Holds

Psychiatric patients on involuntary psychiatric holds can contest or challenge their involuntary holds at any time after the conclusion of a 5150 hold. The Public Defender's Office represents patients who are on a 5150 hold. The City Attorney represents the Public Conservator in petitions for conservatorship. When a patient wishes to contest a psychiatric hold or a referral to conservatorship, the Public Defender's Mental Health Unit represents the patient's expressed wishes in court proceedings. The City Attorney represents the Public Conservator and the hospital's treatment team. The patient is released if the presiding judge rules in their favor. Probable cause hearings to extend psychiatric holds are held two times per week while court hearings for temporary and permanent LPS conservatorships are held once a week.

Public Conservator Investigations and Superior Court Authorization Prior to LPS Conservatorship

While patients can be referred to temporary conservatorship at any point during or after the 5150 hold, the Welfare and Institutions Code provides for patients to be held for an additional 14 days (5250) to allow stabilization. Patients who do not stabilize can be referred by the acute in-patient psychiatrists to the Public Conservator to be considered for a 30-day temporary conservatorship.[30] When a judge approves a temporary conservatorship, the Public Conservator is granted 30 days to investigate and determine whether the patient meets the legal criteria for a permanent LPS conservatorship. Filing for temporary conservatorship always precedes filing for a permanent conservatorship. The Public Conservator may petition for extensions of a

[29] The Placement and Care Coordination team is responsible for ongoing utilization review and monitoring of facilities for compliance with State and local requirements.

[30] According to the Deputy Public Defender, the treating psychiatrist generally notifies the individual on the ninth day of the 5250 hold and then files for Justification and Recommendation for LPS Conservatorship prior to the expiration of the 14-day hold.

temporary conservatorship, but extensions may not exceed six months. Permanent conservatorship placements are for a period of one year, with a required annual evaluation to determine whether the patient is no longer gravely disabled and should be discharged.

The State of California's Welfare and Institutions Code states that "the goals of the treatment plan shall be equivalent to reducing or eliminating the behavioral manifestations of grave disability."[31] Therefore, the purpose of the conservatorship period is to improve patient health outcomes.

Limitations on Involuntary Medication

While LPS conservatorship allows for the involuntary confinement of gravely disabled individuals, it does not automatically allow the involuntary administration of psychiatric medications. The Public Conservator must request and receive an Affidavit B from the Superior Court prior to any involuntary psychiatric medication treatment of individuals placed in LPS conservatorship. Under the California Welfare and Institutions Code, an Affidavit B is subject to renewal at the time of the annual LPS renewal.

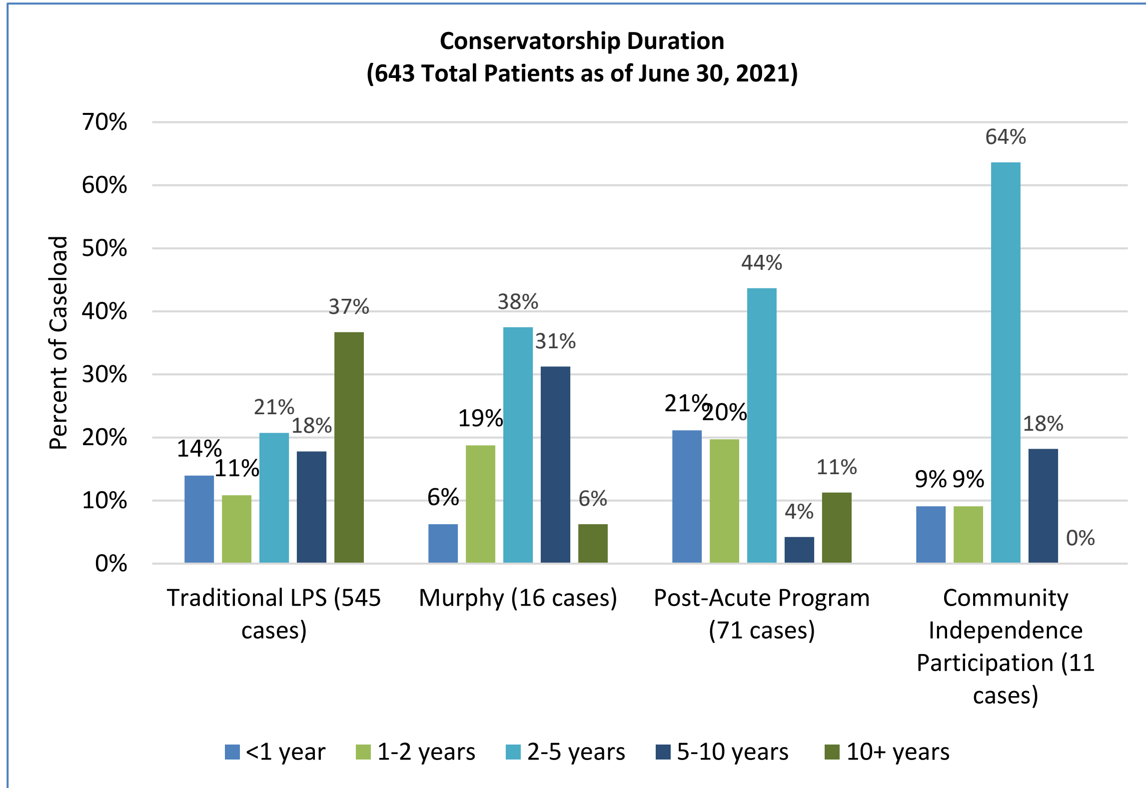
[31] State of California, Welfare and Institutions Code Section 5352.6.

Appendix II: Profile of Mental Health Conservatorships

Length of Stay

Among the current cohort of individuals in LPS conservatorship on June 30, 2021, one-half are conserved for more than five years and 33 percent had been conserved for more than ten years. Length of stay by placement type is shown in Exhibit 11 below.

Exhibit 11. Duration of LPS Conservatorship



Conservatorship Duration	**< 1 year**	**1-2 years**	**2-5 years**	**5-10 years**	**10+ years**	**Total**
Traditional LPS Conservatorship	76	59	113	97	200	545
Murphy	1	3	6	5	1	16
Community Independence Participation Program (CIPP)	1	1	7	2	0	11
Post-Acute with Affidavit B	15	14	31	3	8	71
All Programs	93	77	157	107	209	643
All Programs: %	14%	12%	24%	17%	33%	100%

Source: San Francisco Human Services Agency, Department of Adult and Aging Services (as of June 30, 2021)

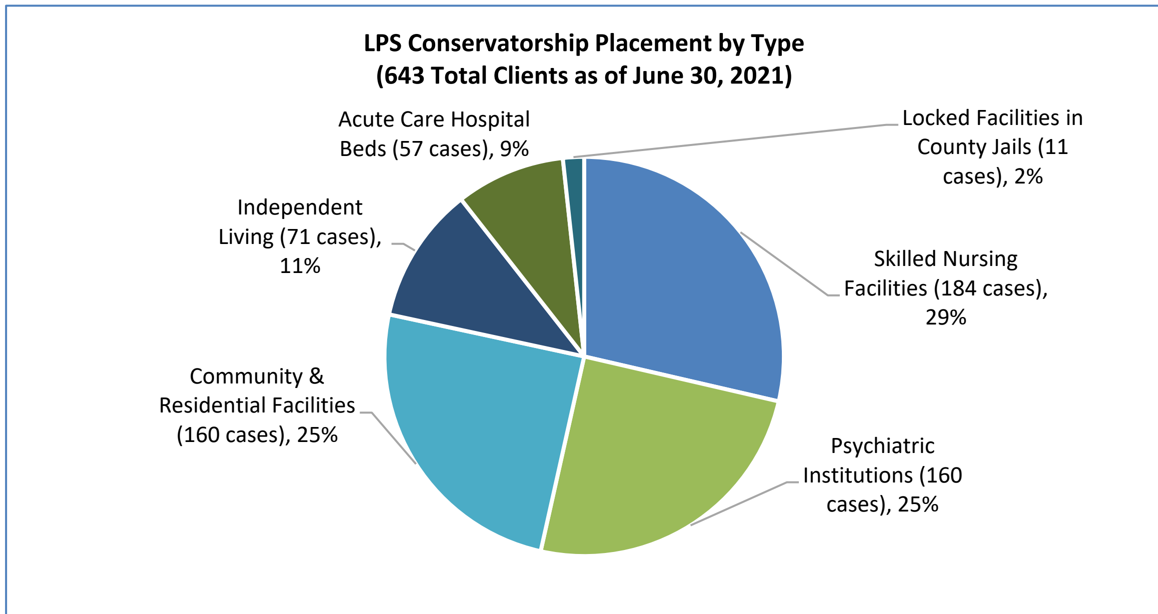
Note: Duration is measured from the beginning of the patient's current LPS conservatorship, which is often the date that the temporary conservatorship is granted.

Placement in Locked and Unlocked Settings

More than one third (231) of individuals in LPS conservatorship were in an unlocked placement as of June 30, 2021, as shown in Exhibit 12 below. Individuals placed in an LPS conservatorship are entitled to placement in the least restrictive, most appropriate level of care, and can transition from "locked" to "unlocked" settings as their mental health improves.

Individuals in unlocked placements may live independently in their families' homes, an apartment, a single resident occupancy (SRO) hotel, or in other unlocked facilities, including skilled nursing and board and care facilities, supportive housing, and residential substance use programs. Individuals placed in locked settings may be in acute care hospital beds, state psychiatric hospitals, mental health rehabilitation centers, locked skilled nursing facilities, and other institutes for mental disease.

Exhibit 12. LPS Conservatorship Placements by Type



Placements of LPS Patients as of June 30, 2021	# of Patients	% of Total Patients
Acute care hospital beds	57	9%
Locked facilities in County jails	11	2%
Psychiatric institutions	160	25%
Skilled nursing facilities	184	29%
Subtotal, Locked Facilities	412	64%
Community and residential facilities	160	25%
Independent living	71	11%
Subtotal, Unlocked Facilities	231	36%
Total	**643**	**100%**

Source: San Francisco Human Services Agency, Department of Disability and Aging Services (as of June 30, 2021)

Note: Psychiatric institutions can include mental health rehabilitation centers and institutes for mental disease (i.e., locked sub-acute facilities). Community and residential facilities can include residential care facilities, board and care, and residential drug or alcohol programs.

Increase in Number of Placements in Community Programs

The number of individuals placed in the Post-Acute Community Conservatorship increased from three in FY 2016-17 (the first year of the program) to 83 in FY 2020-21. The Post-Acute Community Conservatorship allows conserved individuals to live in the community with court-mandated medication compliance, shown in Exhibit 13 below. Participation in community-based service models (Community Independence Participation Program and Post-Acute Community Conservatorship) increased from 3 percent of total LPS conservatorship caseload in FY 2016-17 to 12 percent of total LPS conservatorship caseload in FY 2020-21.

Exhibit 13. Annual Caseload for Conservatorship in San Francisco

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Temporary and Permanent LPS Conservatorship	660	634	630	695	700	753
Murphy Conservatorship	12	16	15	15	16	16
Total LPS and Murphy Conservatorship	**672**	**650**	**645**	**710**	**716**	**769**
Community Programs						
Community Independence Participation Program	10	17	20	15	11	11
Post-Acute Community Conservatorship	n/a	3	20	29	62	83
Housing Conservatorship	n/a	n/a	n/a	n/a	n/a	2
Total Community Programs	**10**	**20**	**40**	**44**	**73**	**96**

Source: San Francisco Human Services Agency, Department of Disability and Aging Services
Note: Number of unique individuals at any point in the fiscal year.

Appendix III: High Users of Emergency Urgent Services

Exhibit 14: Number of Clients Using Urgent/ Emergency Services in FY 2019-20

	Top 100 Users	Top 1 Percent of Users	Top 2 - 5 Percent of Users	Bottom 95 Percent	Total Users
Number of patients	100	506	1,689	48,968	51,163
Number of patients who were in top 5% of users for 5 or more years since FY 2007-08	49	180	228	280	688
Psychiatric Emergency Services (PES)					
Number of patients using Psych Emergency Services (PES)	71	314	522	2,252	3,088
Average number of visits to PES per patient	13.5	7.6	3.0	1.3	2.2
Total PES patients with 5150 hold	51	227	355	1,542	2,124
Number of 5150 holds per patient experiencing hold [a]	3.7	3.1	2.0	1.2	1.5
Conservatorships					
Number of patients assigned to conservator	5	14	29	181	224
Number of patients assigned to conservator at any time in their history	10	38	67	567	672
Severe Mental Illness					
Number of patients diagnosed with psychoses	78	355	757	5,236	6,348
Homelessness					
Number of patients homeless within past year	96	452	1,144	9,577	11,173

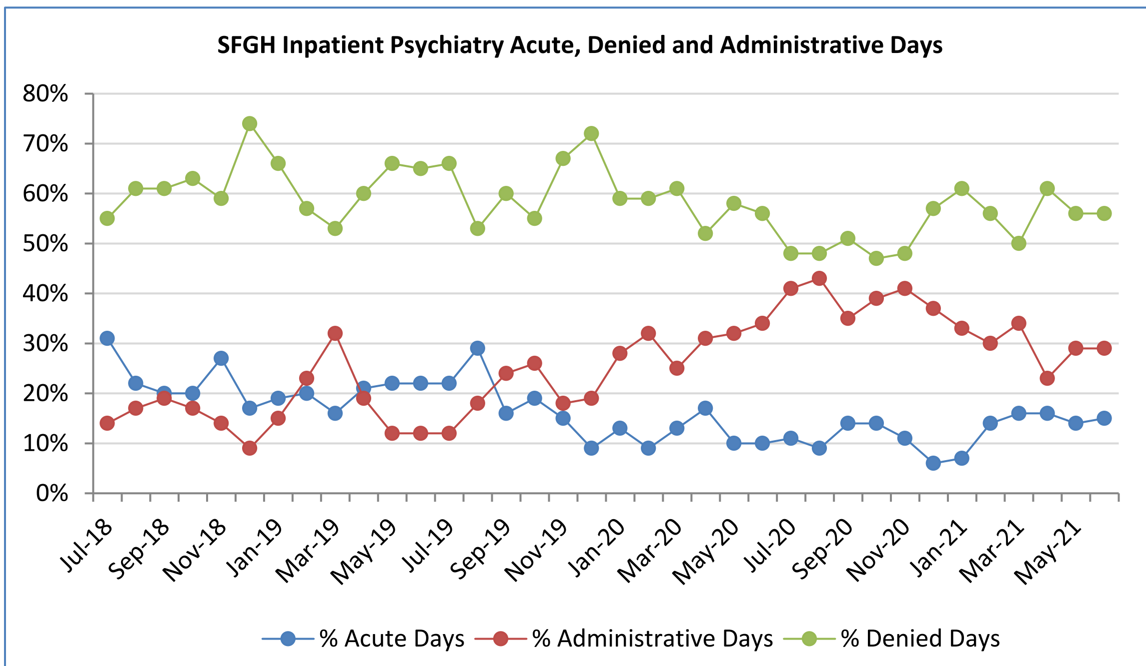
Source: Department of Public Health Whole Person Team Coordinated Case Management System

[a] Average episodes per client with experience of 72-hour or 14-day hold

Appendix IV: Delays in Placement for SFGH Acute Psychiatry Inpatients

Less than 20 percent of the patient days in San Francisco General Hospital's (SFGH) acute inpatient psychiatric unit in FY 2020-21 were for acute psychiatric days. Approximately one-half of the patient days were "denied" days and 30 percent were "administrative days." Medi-Cal and third-party payers deny reimbursement for inpatient days for a number of reasons, including billing or medical coding errors, ineligible diagnosis or treatment, or patients who no longer need acute care and are waiting for placement. Medi-Cal administrative days are inpatient days for patients who no longer require acute hospital care and are awaiting placement in a subacute facility.[32] Medi-Cal pays a partial reimbursement to the hospital for administrative days.

Exhibit 15. SFGH Inpatient Psychiatry Acute, Denied and Administrative Days FY 2018-19 through FY 2020-21



Source: Quality Data Center, Department of Public Health

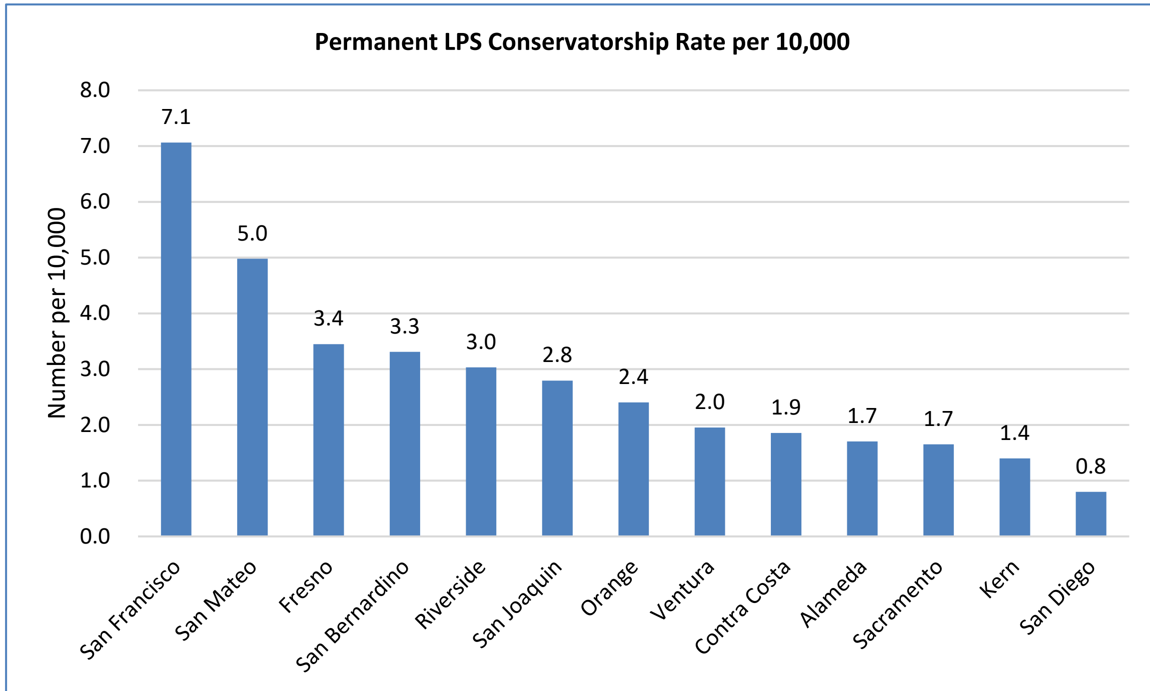
The inpatient psychiatric unit at SFGH has 44 beds, which according to the Budget and Legislative Analyst's November 2019 report, was adequate if sufficient subacute placements existed for patients ready for discharge. According to the June 2020 San Francisco Department of Public Health Behavioral Health Bed Optimization Report, while the number of inpatient psychiatric unit beds would need to increase to reduce extended stays in Psychiatric Emergency Services before transfer to the inpatient unit, investments in "downstream bed categories have been proven to reduce or even eliminate bottlenecks upstream," and therefore, the Department of Public Health decided against recommending an increase in inpatient psychiatric unit beds.

[32] Administrative days are for patients waiting placement in sub-acute facilities that provide treatment and denied days are for patients waiting in placement to board and care or other facilities that provide personal care but not treatment.

Appendix V: California Counties and LPS Conservatorship Caseload

We surveyed the largest counties in California (excluding Los Angeles and Santa Clara) on new and renewed permanent LPS conservatorship caseload in FY 2020-21. Based on self-reported data from the 13 counties responding to the survey, the total permanent LPS conservatorship caseload per 10,000 population ranged from 0.8 in San Diego County to 7.1 in San Francisco, as shown in Exhibit 16 below.

Exhibit 16. Range of Permanent LPS Conservatorship Cases per 10,000 Population Among 13 of the Largest California Counties (FY 2020-21)



Source: San Francisco Superior Court; Budget and Legislative Analyst survey of counties (self-reported data)

According to interviews with public conservator staff in other Bay Area counties, each county has different "tolerances" for referring patients to LPS conservatorship. The LPS Act defines when a patient is gravely disabled, but counties have discretion on when to refer a patient who is gravely disabled. According to City staff, health care providers in different counties may be more or less likely to refer individuals who are gravely disabled by mental illness to LPS conservatorship due to the availability of community treatment programs. These findings were corroborated in interviews conducted by academic researcher Alex Barnard, who wrote in a February 2021 draft report on conservatorship in California that he found "enormous variability" in how counties use conservatorships. Interviewees reported that variability in county processes as well as perceptions of the availability of treatment beds affected conservatorship referrals.[33]

[33] Barnard, Alex V. Draft Report "Absent Authority: Evaluating California's Conservatorship Continuum," https://drive.google.com/file/d/1H-hKxnd-xwNXap05VZPxSkAJT92ZzHN-/view, Feb. 2021.

Appendix VI: Department of Public Health Plan for Adding Mental Health Treatment Beds

In FY 2018-19 through FY 2022-23, the Department of Public Health has received funding for 408 additional mental health treatment beds as follows:

- 348 beds funded by Proposition C, a gross receipts tax passed by voters in 2018 for homeless services; and
- 60 beds funded by excess Educational Revenue Augmentation Fund (ERAF), General Fund, and grant allocations.

Funds were allocated from various fund sources, as shown in Exhibit 17, over several fiscal years.

Exhibit 17. Mental Health Treatment Beds by Fund Source

Fund Source	Bed Count
Proposition C	348
Educational Revenue Augmentation Fund	30
Grants and General Fund	30
Total Beds	**408**

Source: Department of Public Health

Individuals placed in LPS conservatorship are generally placed in locked subacute facilities, psychiatric skilled nursing facilities, or residential care, depending on the patient's acuity. Of the 408 expansion beds, 137 beds or approximately one-third would provide placement options for individuals who are conserved depending on acuity. However, the majority of individuals who are conserved require locked subacute or psychiatric skilled nursing facility placement, of which the Department of Public Health plans to add 44 beds. The 408 expansion beds by type are shown in Exhibit 18.

Exhibit 18. Behavioral Health Residential Treatment Expansion

Bed Type	Description	Expansion Goal	Currently Open
Beds available to LPS conservatorship			
Psychiatric Skilled Nursing Facility	Out-of-county secure 24-hour medical care for people with chronic mental health conditions	13	0
Locked Sub-Acute Treatment	Out-of-county psychosocial rehabilitation for people who are conserved in a locked setting	31	20
12-month Enhanced Board and Care	Pilot, out-of-county supervised living and treatment for people with chronic mental health illness and/or coming from locked facilities	20	20
Residential Care Facility (also known as Board and Care)	Supervised residential program for individuals with mental health issues who require assistance with activities of daily living	73	0
Subtotal		**137**	**40**
Psychiatric Respite Facility – Hummingbird-Valencia	Psychiatric respite facility to serve people experiencing homelessness from the Mission and Castro	30	30
Managed Alcohol Program	Pilot, medical supervision for people with chronic alcohol dependency in a 24-month supportive housing setting	20	10
Cooperative Living for Mental Health	Communal living for people with chronic mental health and/or substance use	6	0
Drug Sobering Center	Pilot, 24-7 program for people experiencing homelessness with drug intoxication, providing short-term stays and linkage to services	20	0
Residential Step-down – Substance Use Disorder	Long-term sober living environment for clients coming out of residential care programs	140	0
Enhanced Dual Diagnosis	Transitional medically enhanced care for people with a dual diagnosis of mental health and substance use issues	30	0
Transitional Age Youth Residential Treatment	Supervised treatment for young adults with serious mental health and/or substance use issues	10	0
Crisis Diversion Facility	Short-term, urgent care intervention as an alternative to hospital care	15	0
Total		**408**	**80**

Source: DPH dashboard, https://sf.gov/residential-care-and-treatment as of September 2021

In FY 2020-21, the Department of Public Health had 904 subacute and residential care beds, with the plan to add 137 beds as noted above. Of these 137 beds, 40 beds have opened.

Exhibit 19. Bed Count FY 2020-21 and Expansion Goals

Bed Type	FY 2020-21 Bed Count	Expansion Goal	Available Beds (of Expansion Goal) as of Sept. 2021
Psychiatric Skilled Nursing Facility	158	13	0
Locked Subacute Treatment	122	31	20
Subtotal Subacute Beds	280		
12-month Enhanced Board and Care	30	20	20
Residential Care Facility (Board and Care)	275	73	0
Residential Care Facility for the Elderly	319		
Total	**904**	**137**	**40**

Source: DPH

According to Department of Public Health staff, the City began moving patients into the 12-month enhanced board and care facility in mid-September 2021. As of mid-October 2021, 10 of the 20 beds were occupied. The City has procured 20 of the 31 locked subacute beds and as of mid-October 2021, placed 16 patients referred from San Francisco General Hospital, jails, and other facilities.