

MANAGEMENT DEFICIENCIES IN THE NEVADA COUNTY BEHAVIORAL HEALTH DEPARTMENT

REASON FOR INVESTIGATION

The Grand Jury received complaints from a citizen and a county employee regarding management practices of the Nevada County Behavioral Health Department (BH) and supervision of Mothers in Recovery (MIR), a drug recovery program. The complaints alleged inappropriate and divisive behavior of county employees involved in MIR and other BH programs.

As an advocate for the public, the Grand Jury is concerned about the ability of the County Behavioral Health Department to effectively deliver critical social services to at-risk clients and to cooperate in a professional manner with the Courts and other County departments including the County Probation Department in the delivery of these services. The Grand Jury is also concerned about the management practices of the Behavioral Health Department, the ability of program managers to supervise subordinates, and the day-to-day conduct of individual staff members.

METHOD OF INVESTIGATION

The Grand Jury interviewed the complainants, senior and mid-management of the Behavioral Health Department, members of the County Probation Department, the director of Human Resources, and the County Executive Officer. The Grand Jury also reviewed summaries of County Investigative Reports, personnel policies, and complaints of abusive and inappropriate behavior by several Behavioral Health Department staff toward co-workers, members of the Probation Department, Drug Court, and clients in a drug recovery program. The Grand Jury corroborated anecdotal evidence through interviews with multiple independent sources.

FINDINGS

1. Since 2000, the County Drug Court has discontinued referrals to MIR due to inappropriate behavior by the program facilitator that included writing a letter containing false allegations against County Probation staff and signing client names to the letter.
2. The responsible manager at the time characterized MIR as “the shining star of Behavioral Health,” even complimenting the program facilitator for not letting external forces distract or influence conduct of the program, when in fact the program facilitator had been disciplined for inappropriate behavior with an external agency.

3. The Human Resources (HR) department took fourteen months to complete an investigation into a county employee's complaint filed in 2003 of a hostile working environment caused by the program facilitator of the MIR program. Although HR conducted interviews regarding the complaint, no one from the complainant's list of nineteen witnesses was interviewed. HR found "no merit" to the allegations of a hostile work environment.
4. The Grand Jury was unable to find any established, written protocol for operation of the MIR program. There is evidence that this lack of structure has led to allegations of favoritism and unequal treatment of clients by the facilitator of the program.
5. At least one MIR program client has filed a formal complaint with the county alleging that MIR staff compromised therapist-client confidentiality.
6. Evidence shows a history within BH of certain staff filing false accusations shortly before performance reviews are due resulting in changes of supervisors and delay of anticipated poor reviews. For example, there have been four different supervisors for the MIR program facilitator in less than two years, including the Director of BH.
7. Recently, a few drug recovery program staff members from BH filed a grievance with the county's HR department against their current supervisor shortly before their performance reviews were due. The grievance was promptly investigated and found to be without merit by HR.
8. Several BH clients have been made to wait for hours for appointments with drug recovery program staff that are reportedly chronically late or fail to show up.
9. The Director of BH has allowed inappropriate behavior such as repeated false allegations against co-workers and poor attendance by a few drug recovery program staff to continue with little or no disciplinary action taken.

CONCLUSIONS

1. Deficiencies in county management of the MIR program appear to have led to the program being run in an unprofessional manner by the program facilitator.
2. Prior management appears to have been more concerned with making the MIR program appear to "look good" than with effectively guiding and counseling the program facilitator to assure that the program is properly conducted. This failure in leadership has resulted in removal of the MIR program from participation with County Drug Court, to the detriment of the taxpayers as well as county residents who could benefit from participation in the program.

3. It appears the failure of HR to fully investigate the county employee's complaint in a timely manner gave tacit approval of the MIR program facilitator's alleged abusive and inappropriate behavior, which reportedly continued during the fourteen months of investigation.
4. BH management has repeatedly failed to take timely and progressive disciplinary action against this and other affected employees despite evidence of alleged abusive behavior, frivolous claims of wrongdoing against co-workers, lackadaisical work habits, and inappropriate behavior towards co-workers and at-risk clients.
5. The failure of prior and current BH management to take appropriate disciplinary action with the involved employees has led to growing problems within the department, negatively affecting other employees' behavior and causing serious morale problems.
6. It appears the BH Director's solution to resolving personnel issues is to continually move personnel from one supervisor to another in an attempt to achieve harmony within the department.
7. Evidence suggests that inaccurate and inflated performance evaluations for BH staff serve only to guarantee the continuation of behavior that appears both inappropriate and abusive to co-workers and drug recovery program clients.
8. Evidence suggests that if past management failures, lack of discipline and employee accountability problems could be resolved, Drug Court would resume its involvement with the MIR program.
9. Everyone loses when mediocrity instead of excellence is accepted in the management, supervision, and delivery of critical county social services such as drug recovery programs.

RECOMMENDATIONS

1. The Board of Supervisors (BOS) should direct the CEO to suspend operation of the MIR program until proper management and treatment protocols can be ensured. Current clients should be re-directed to other programs.
2. The BOS should direct the CEO to work with Drug Court to study and determine the best way to deliver drug recovery programs within the county.
3. The BOS should direct the CEO to ensure that BH reestablishes good working relationships with all related county and external agencies in order to provide county-led recovery programs accessible to all qualified participants.

4. The BOS should direct the CEO to ensure that BH management strictly adheres to personnel code requirements regarding timely and accurate employee evaluations and that all supervisors, managers, and directors are held accountable for maintaining a supportive and cooperative work environment for county employees.
5. The BOS should direct the CEO to take immediate action to determine the root cause of the current hands-off management style within BH and work to cleanse the department of the atmosphere caused by a failure to appropriately discipline staff. Such action should include progressive discipline, letters of reprimand, administrative leave, suspension, and/or termination.
6. The BOS should direct the CEO to review the current policy regarding complaints and/or grievances involving county employees and to ensure timely and thorough completion of investigations by HR.

REQUIRED RESPONSES

Board of Supervisors

September 28, 2005

COUNTY OF NEVADA

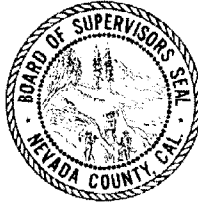
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September 27, 2005

RECEIVED
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SEP 28 2005

The Honorable Judge Al Dover
Presiding Judge of the Nevada County Courts
Nevada County Court House
Nevada City, CA 95959

Subject: Board of Supervisors Responses to the 2004-2005 Nevada County Civil Grand Jury Report, Management Deficiencies in the Nevada County Behavioral Health Department

Dear Judge Dover:

The attached responses by the Board of Supervisors to the 2004-2005 Nevada County Civil Grand Jury Report, Management Deficiencies in the Nevada County Behavioral Health Department, are submitted as required by California Penal Code §933.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on September 27, 2005. Responses to Findings and Recommendations are based on personal knowledge, review of official County records and information received from the County Executive Officer.

Also attached is a copy of testimony regarding the Grand Jury Report presented to the Board at the meeting by Nancy Matulich, Local 39 (Stationary Engineers) Business Representative.

The Board of Supervisors would like to thank the members of the 2004-2005 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,

Ted S. Owens
Chair of the Board

Attachment

cc: Foreman, Grand Jury
Rick Haffey, County Executive Officer

APD
mos 9/30/05

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2004-2005 CIVIL GRAND JURY REPORT**

**MANAGEMENT DEFICIENCIES
IN THE NEVADA COUNTY BEHAVIORAL HEALTH DEPARTMENT**

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, or testimony from the Board Chair.

I. GRAND JURY INVESTIGATION:

Management Deficiencies in the Nevada County Behavioral Health Department.

In preparing the response to the Grand Jury's Findings, the County notes for the record that confidential personnel information cannot be publicly disclosed under State and Federal law. The responses below attempt to thoroughly address the findings and the County's compliance with personnel policies, procedures while protecting the confidentiality of the employees involved.

A. RESPONSE TO FINDINGS & RECOMMENDATIONS:

Findings:

- 1. Since 2000, the County Drug Court has discontinued referrals to MIR due to inappropriate behavior by the program facilitator that included writing a letter containing false allegations against County Probation staff and signing client names to the letter.**

Partially agree. Referrals from the County Drug Court to MIR were discontinued due to issues related to unfounded allegations against County Probation staff and also related to problems sharing information across County programs. The signing of client names to the above referenced letter cannot be confirmed.

- 2. The responsible manager at the time characterized MIR as "the shining star of Behavioral Health," even complimenting the program facilitator for not letting external forces distract or influence conduct of the program, when in fact the program facilitator had been disciplined for inappropriate behavior with an external agency.**

Partially agree. Three years ago, the MIR Program Facilitator was not disciplined for inappropriate behavior with an external agency. Currently employees are reviewed on a regular basis for both positive actions and improvement areas and are held accountable for their performance.

- 3. The Human Resources (HR) department took fourteen months to complete an investigation into a county employee's complaint filed in 2003 of a hostile working environment caused by the program facilitator of the MIR program. Although HR conducted interviews regarding the complaint, no one from the complainant's list of nineteen witnesses was interviewed. HR found "no merit" to the allegations of a hostile work environment.**

Partially agree. The Human Resources Department did investigate a complaint that was initially filed on August 4, 2003 against the MIR facilitator and her supervisor. Even though the complaint did not allege a hostile work environment based upon a protected class under the law, the Human Resources Department proceeded to investigate the complaint due to its multi-department nature.

The complainant's allegation statement was finalized and signed on October 14, 2003. The complainant transferred to a new assignment on October 20, 2003. During the course of the Human Resources Department investigation, the complainant and the respondent did not work together. Due to workload issues, the Human Resources Department prioritized the investigation of the employee's complaint behind numerous other complaints that were actively being investigated. Staff completed the investigation as quickly as possible. The alternative to internal staff investigating these types of complaints is to contract out the investigative work at the cost of thousands of dollars to the county.

The County disagrees that none of the witnesses listed by the complainant were interviewed. The complainant listed numerous witnesses many of whom were either clients or did not have any direct knowledge of the allegations. Three of the witnesses listed by the complainant as having direct knowledge or witnessing alleged incidents were interviewed along with the two respondents. Overall, six County employees and four non-County employees were interviewed. The focus of the Human Resources investigation was on an alleged hostile work environment between two employees, not on inappropriate conduct in the MIR program.

It is agreed that Human Resources found no merit to the allegation that the MIR facilitator created a hostile work environment for the complainant pursuant to the legal criteria governing this type of complaint. However, other inappropriate conduct was found and therefore appropriate corrective action was taken.

- 4. The Grand Jury was unable to find any established, written protocol for operation of the MIR program. There is evidence that this lack of structure has led to allegations of favoritism and unequal treatment of clients by the facilitator of the program.**

Disagree. Please see the attached BH Department Policies and Procedures 331 & 332. These policies are also in the process of being updated.

5. **At least one MIR program client has filed a formal complaint with the county alleging that MIR staff compromised therapist-client confidentiality.**

Disagree. We have no knowledge of any formal client complaints filed during the period in question, however we are aware of a confidentiality complaint by a county employee. This was also investigated and internally resolved according to County Personnel Policy.

6. **Evidence shows a history within BH of certain staff filing false accusations shortly before performance reviews are due resulting in changes of supervisors and delay of anticipated poor reviews. For example, there have been four different supervisors for the MIR program facilitator in less than two years, including the Director of BH.**

Partially agree. While there have been a number of instances of BH staff filing accusations shortly before performance reviews, the change in supervision was for a variety of reasons. The first changes in supervision were due to reorganization, driven by budget reductions. The latter three changes were necessitated during the course of a misconduct investigation involving a Program Manager and his two subordinate employees. It is a common practice to temporarily reassign the supervisor during the course of the investigation. This practice helps to protect the integrity of the investigation and minimize the contact between the parties involved in the investigation. This situation did occur in Behavioral Health over the last two years, and upon a finding of no merit to the allegations, the employees were returned to the supervision of their Program Manager.

7. **Recently, a few drug recovery program staff members from BH filed a grievance with the county's HR department against their current supervisor shortly before their performance reviews were due. The grievance was promptly investigated and found to be without merit by HR.**

Agree.

8. **Several BH clients have been made to wait for hours for appointments with drug recovery program staff that are reportedly chronically late or fail to show up.**

Agree. This is being addressed through appropriate supervision by the assigned manager.

9. **The Director of BII has allowed inappropriate behavior such as repeated false allegations against co-workers and poor attendance by a few drug recovery program staff to continue with little or no disciplinary action taken.**

Disagree. The Director of Behavioral Health cannot prohibit employees from filing complaints. It is an employee's legal right to file a complaint of discrimination or to bring to the attention of

management, behavior that an employee perceives is inappropriate. To prohibit employees from filing complaints, or to take action against employees who file complaints, can be considered reprisal and is prohibited under the law. The County is unable to determine whether a complaint has merit or not without first investigating the situation and is therefore, unwilling to allow its department heads to dismiss complaints before conclusion of an investigation. The Director of Behavioral Health has addressed attendance issues through the normal supervisory process.

Recommendations:

1. **The Board of Supervisors (BOS) should direct the CEO to suspend operation of the MIR program until proper management and treatment protocols can be ensured. Current clients should be re-directed to other programs.**

The recommendation has been implemented.

The MIR Program has been suspended and clients are being referred to other providers. A multi-part assessment of the program has been done and appropriate action will be taken to address any deficiencies.

2. **The BOS should direct the CEO to work with Drug Court to study and determine the best way to deliver drug recovery programs within the County.**

The recommendation has been partially implemented.

The Behavioral Health Director and the Human Service Agency Director will work with the Drug Court to assure appropriate access to county operated recovery programs for Drug Court clients. The Drug Court's scope extends to referring its clients to various drug recovery programs that may be operated by the county or by private organizations. Drug Court is not responsible for how those programs are delivered.

3. **The BOS should direct the CEO to ensure that BH reestablishes good working relationships with all related county and external agencies in order to provide county-led recovery programs accessible to all qualified participants.**

The recommendation is presently being implemented and will be completed by June 30, 2006.

This program will be implemented during the current fiscal year by meeting with management of the agencies involved in Drug Court in order to discuss methods to improve relationships.

4. **The BOS should direct the CEO to ensure that BH management strictly adheres to personnel code requirements regarding timely and accurate employee evaluations and that all supervisors, managers, and directors are held accountable for maintaining a supportive and cooperative work environment for county employees.**

The recommendation has been implemented.

The current CEO already evaluates and holds department heads accountable for their timely and accurate employee performance evaluations through individual Review and Development sessions. The current CEO's expectations of department heads requires them to continually improve their professional abilities through continuing education/training and to do the same for

their subordinates. Significant priority is given to organizational development, team building, best practice implementation, process automation and reengineering. Again, the current CEO evaluates department heads on their progress towards organizational development and team building within their department. Recommendations for improvement in any area of the review and development session may be provided to department heads with implementation expected. As the Grand Jury is aware from its own previous report, a few department heads have left the organization when CEO expectations were not met. Further follow through is balanced between providing appropriate guidance and avoiding the perception of micromanagement.

- 5. The BOS should direct the CEO to take immediate action to determine the root cause of the current hands-off management style within BH and work to cleanse the department of the atmosphere caused by a failure to appropriately discipline staff. Such action should include progressive discipline, letters of reprimand, administrative leave, suspension and/or termination.**

The recommendation has been implemented.

As indicated in the opening remarks of this response, personnel matters are confidential under the law. This, unfortunately, results in the appearance of inactivity or “hands off management” when, in fact, substantial activity has taken place. The Behavioral Health Department utilizes progressive discipline, letters of reprimand, administrative leave, suspension, and/or termination, in consultation with the Human Resources Department to correct performance issues and inappropriate behavior. Suffice to say, that confidential investigations and corrective actions are currently taking place.

- 6. The BOS should direct the CEO to review the current policy regarding complaints and/or grievances involving county employees and to ensure timely and thorough completion of investigations by HR.**

The recommendation has been implemented.

Since the current HR Director was hired, the CEO and HR Director have met weekly to discuss personnel issues including the status of investigations. Appropriate actions are taken when necessary.

REQUIRED RESPONSES

Board of Supervisors – by September 28, 2005

NEVADA COUNTY MENTAL HEALTH DEPARTMENT

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POLICY AND PROCEDURE NO.331

Perinatal Day Treatment Program

APPROVED: [Signature]

SUBJECT: Perinatal Day Treatment Program

EFFECTIVE DATE:

SUBST. ABUSE x

REVISION DATE: 10-18-99

MENTAL HEALTH

POLICY:

The goal of the Perinatal Day Treatment Program is to provides coordinated substance abuse intervention, health care and ancillary services to pregnant and parenting women of Nevada County. By bringing together health, mental health, and social services expertise with substance abuse treatment we link services in order to provide a cohesive system for intervention, assessment, education, treatment and referral. Program staff are sensitive to and reflective of the target population, gender, and cultural diversity.

PROCEDURE:

Program Summary: Services include but are not limited to: chemical dependency counseling, individual, group and family counseling, parenting education, the impact of substance abuse consumption during pregnancy and breast feeding, education on HIV/AIDS transmission and access to HIV testing, nutrition and home making skills training, educational and vocational training, recreational activities and after-care counseling and referral to various community services according to client treatment/discharge plans including referrals for health, psychosocial, and developmental assessments.

The program operates three hours a day, Monday through Friday. We encourage participation by providing/supplementing transportation to and from the program, and on-site child care during the hours of the program. Clients must agree to remain drug-free during treatment and be willing to accept the program rules and structural limitations. Our goal is to assist clients in making the transition from active disease to recovery through intervention and to become healthy intact recovering families.

The Perinatal Day Treatment Program operates as a service of the Nevada County Mental Health/Alcohol and Drug Programs. The Day Treatment Program has a staff of six including the Director of Mental Health, the Alcohol and Drug Program Coordinator, two Mental Health Therapists, an Accounting Clerk and a Child Care Coordinator. In addition, community professionals are utilized for parts of the ongoing curriculum.

Counseling, Education, Program Activities, Homework: Each client will have an individualized written treatment plan which is based upon the initial assessment, and medical assessment, together with the information obtained in the intake process by the primary counselor. The plan is developed within 30 days of the client's admission and is approved by the program coordinator and the Medical Director within 30 days thereafter. The plan is periodically reviewed, and updated at least every 90 days. At a minimum the plan includes the following:

- a statement of the problems to be addressed in treatment
- a statement of the goals to be reached which address the identified problems
- specific action steps to be taken by the program and/or client to accomplish the stated goals
- target dates for the accomplishment of the action steps and goals and when possible, resolution of the problem.

Fifteen hours of formalized/structured activities will be offered Monday through Friday. These will include, but not be limited to the following: Group counseling and education of chemical dependency, one-to-one counseling, parenting classes, nutritional instruction, Public Health Nursing consultations, recreational activities, and home making skills training. Clients will participate in these classes in accordance with their individualized treatment plans.

Homework (generally one hour a day) will be assigned such as reading, attendance at 12-step meetings, practical application of parenting skills, or parent-child projects.

Completion/Discharge Criteria and Grounds for Expulsion:

Successful Completion will mean that a client has met all the goals as established in her individualized treatment plan.

Unsuccessful Discharge will mean that a client has terminated treatment of their own volition and has not met the criteria for successful completion.

Involuntary Discharge will mean that the client has been discharged as a result of incarceration, assessed as an inappropriate referral, or has not complied with or violated the program policies and procedures.

Grounds for Expulsion:

- Involuntary discharge will result if:
 1. A client is suspected of using drugs or alcohol.
 2. A client possesses a weapon.
 3. A client demonstrates violence or threatens violence towards self or another person.

- Involuntary discharge may result if:
 1. A client refuses to participate in program activities.
 2. A client refuses to adhere to program policies and procedures.
 3. A client withholds knowledge of another client's violation of a major policy (e.g. drug or alcohol use).
 4. A client does not progress satisfactorily towards reaching treatment goals.
 5. A client has poor attendance and does not complete makeup assignments or misses two consecutive appointments without prior notification.

Medical Care, Illness, Children's Illnesses: All clients are required to complete a Medical History Form at the intake assessment and to comply with the recommendations of the Medical Director to be eligible for admission. All pregnant women must be under the care of an obstetrician. Arrangements for visitations and consultations by Medical Professionals will be part of the Perinatal Day Treatment Program. All clients excused due their own illness or their children's illness will be expected to complete a make up assignment for each day missed. Clients must call in daily in order to extend an excused absence.

Care of Children: On site child care will be provided for children age 0 - 12 years during the hours of the Perinatal Day Treatment Program. However, the mother is ultimately responsible for her children, and in the event of a child's illness or other problems she may be asked to leave the women's activities and care for her child(ren).

Recreation: Recreation activities are held frequently and all clients are required to participate.

NEVADA COUNTY MENTAL HEALTH DEPARTMENT

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POLICY AND PROCEDURE No. 332

APPROVED: 

REFERENCE: Perinatal Day Treatment Program
Admission Policy

EFFECTIVE DATE: 6/20/94
REVISION DATE: 10-18-99

SUBST. ABUSE x
MENTAL HEALTH

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POLICY:

To insure that Nevada County Alcohol and Drug Programs comply with the regulations and standards set forth by the State Department of Alcohol and Drug Programs and according to the basic concepts of social model treatment, the following procedures apply.

PROCEDURE:

Admission and Readmission Criteria: Clients accepted to P.D.T. must be pregnant women or parenting mothers who have a primary substance abuse problem and who meet the following criteria:

- a. Pattern of pathological use that is reflected by one or more of the following:

Frequent intoxication when expected to fulfill major role obligations at work, school, or home. Intoxicated throughout the day. Inability to cut down or stop use. Repeated efforts to control use. Needs daily use of substances for adequate functioning. Social and family relationships may be deteriorated by individual's failure to meet obligations. Displays of erratic behavior. Legal involvement caused by drug involvement or criminal activity.

- b. Inadequate family, social, and/or occupational supports necessary to be successful in Outpatient Treatment.
- c. Has given birth to a drug-exposed baby.
- d. Has no medical or psychological disabilities which would preclude participation in the program structure and/or activities.
- e. Agrees to be drug free during treatment.
- f. Proof of being under an obstetrician's care if currently pregnant.
- g. Client must be willing to accept program rules and structural limitations prior to admission.

Perinatal D/T Admission Policy - 2

Readmission:

Clients applying for readmission must meet the following criteria:

- a. Must have been discharged at least 72 hours prior to readmission.
- b. Must meet all admission criteria.
- c. Must complete any assignments, meetings, etc. that were part of their previous discharge plan.

SEP 27 2005

NEVADA COUNTY
BOARD OF SUPERVISORS

I am here today to talk about the Grand Jury Report on Management Deficiencies in the Nevada County Behavioral Health Department, which targets the Mothers in Recovery Program. As the business agent for Stationary Engineers Local 39, the labor union that represents the employees in Nevada County, this is not my first experience with the Grand Jury and its reports. In the past the Grand Jury has made recommendations regarding staffing issues at the Wayne Brown Correctional Center that have been well thought out and I am grateful for their concern regarding the employee's safety.

However, in this Grand Jury's continued zeal to bash the Administration of the County of Nevada, they have issued a flawed report on the Mothers in Recovery (MIR) Program that may have seriously damaged the career of a very gifted employee. What is abundantly clear to me is that the report about the MIR program works backward from a pre-determined conclusion planted by complainants with personal and private agendas.

I support my statement with one fact. **The Grand Jury never interviewed the MIR Program Facilitator.** They didn't want any information that might keep them from coming to the conclusion that had already decided upon. What is equally surprising about this report is that they accuse the County of a failure to investigate accusations properly when they failed to follow the most basic investigative guideline. Additionally, I don't see how they can make such slanderous attacks on the career of a nine-year employee without giving her the opportunity to answer the charges? In our county, even criminals get their day in court. But in this case, the Grand Jury didn't talk to her about the report and the County didn't talk to her about their response. So this forum is the only opportunity for her to tell her side of the story.

Following are her responses to the comments and recommendations in the Grand Jury report:

1) Since 2000, the County Drug Court has discontinued referrals to MIR due to inappropriate behavior by the program facilitator that included writing a letter

containing false allegations against County Probation staff and signing client names to the letter.

In May of 2000 a Drug Court patient receiving treatment in the MIR program stated in a group therapy session that she had been recruited by the Drug Court Probation Officer and the Drug Court Law Enforcement officer to report back to them any confidential information shared within the treatment group. The other patients were outraged when their confidentiality was illegally breached. The MIR Program Facilitator immediately went to her supervisor who directed her to have the clients write a letter of complaint, which she was instructed to type for their signature.

The MIR Program Facilitator cannot respond as to whether the allegations against the Drug Court Probation Officer and the Drug Court Law Enforcement Officer were found to be false. The supervisor of the Drug Court Law Enforcement Officer was appointed to conduct the investigation of the clients' complaint. After the investigation neither the clients nor the MIR Program Facilitator were notified of the results.

2) The responsible manager at the time characterized MIR as "the shining star of Behavioral Health," even complimenting the program facilitator for not letting external forces distract or influence conduct of the program, when in fact the program facilitator had been disciplined for inappropriate behavior with an external agency.

In her entire career, the MIR Program Facilitator has never been disciplined for inappropriate behavior with an external agency. Additionally, unlike some higher level employees in Behavioral Health, the facilitator has never been disciplined by an external agency, including the Licensing Board. The MIR Program was audited by the state in 2002. The state auditor was so impressed by the program that she asked the MIR Program Facilitator if she would be willing to mentor other counties who might wish to start a similar program. The State auditor could be contacted to confirm this fact. This

information was known to the Department Head of Behavioral Health prior to the County's rebuttal, but for some reason was not included in their report.

3) The Human Resources (HR) department took fourteen months to complete an investigation into a county employee's complaint filed in 2003 of a hostile working environment caused by the program facilitator of the MIR program. Although HR conducted interviews regarding the complaint, no one from the complainant's list of nineteen witnesses was interviewed. HR found "no merit" to the allegations of a hostile environment.

The County found no merit to the allegations of a hostile work environment caused by the MIR Program Facilitator, because the primary cause of the hostility that existed between MIR and Prop 36 Probation was brought on by the employee who was assigned as the Prop 36 Probation Officer. This employee constantly attempted to dictate the treatment of the MIR clients and continually advised them not to follow their treatment plan. The problems with this Probation Officer extended far beyond the MIR Program Facilitator. Eventually the officer was transferred to another assignment. After the transfer, the officer apparently filed the hostile work environment complaint, which was subsequently investigated by the County and found to be without merit. The MIR Program Facilitator has had no problems working with the subsequently assigned Prop 36 Probation Officer.

4) The Grand Jury was unable to find any established, written protocol for operation of the MIR program. There is evidence that this lack of structure has led to allegations of favoritism and unequal treatment of clients by the facilitator of the program.

As you can see from the County's rebuttal, protocols do exist. In their report, the Grand Jury stated that it had interviewed the Dept. Head of Behavioral Health and the Manager of the MIR Program. I don't know why those papers were never produced for the Grand Jury when those policies are County property and were available at all times. Additional

policies and procedures for the program also exist should the Board of Supervisors wish to peruse them.

5) At least one MIR program client has filed a formal complaint with the county alleging that MIR staff compromised therapist-client confidentiality.

The MIR Program Facilitator has never been informed of a client complaint of confidentiality. As to the confidentiality complaint made by a county employee, the MIR Program Facilitator, after discussing the issue with counsel, continues to dispute its validity.

6) Evidence shows a history within BH of certain staff filing false accusations shortly before performance reviews are due resulting in changes of supervisors and delay of anticipated poor reviews. For example, there have been four different supervisors for the MIR program facilitator in less than two years, including the Director of BH.

Early in '05 several Behavioral Health staff filed a complaint of a hostile work environment regarding an employee in a supervisor position. Of the four employees involved in the complaint, only three were subordinates, one was a manager. Of the three subordinates, one had already received a satisfactory evaluation for '05 and the other two were several months from their due date. From the perspective of the affected employees, it could be said that the subsequent poor evaluations were in fact caused by the filing of the complaint, especially since the majority, if not all of their previous evaluations had an overall satisfactory or higher rating.

7) Recently, a few drug recovery program staff members for BH filed a grievance with the county's HR department against their current supervisor shortly before their performance reviews were due. The grievance was promptly investigated and found to be without merit by HR.

This is the same complaint mentioned above. The County allegedly investigated and returned to the employees with a response that their claim had no merit. While the behavior of the supervisor may not have met the requirements for a legal definition of a hostile work environment, it is the Union's opinion, having been present in all of the interviews of the complaints in my unit, that the behavior of the supervisor was inappropriate at best and outright threatening at worst.

8) Several BH clients have been made to wait for hours for appointments with drug recovery program staff that are reportedly chronically late or fail to show up.

While this maybe an issue with some employees in Behavioral Health, in the nine plus years that the MIR Program Facilitator has worked for the County, not one time has she failed to show up for an appointment with a client. Nor has any client been made to wait for hours for an appointment.

Recommendations:

- 1. The Board of Supervisors (BOS) should direct the CEO to suspend operation of the MIR program until proper management and treatment protocols can be ensured. Current clients should be re-directed to other programs.**

Not only is the MIR program a successful drug treatment program, but it is much more cost effective than using a contractor. When clients are referred to outside agencies such as CORR, the County spends funds that would otherwise be saved if they treated the clients with County staff. For instance, a drug test with CORR costs the County \$30 per test, however in-house the cost is approximately \$4. This in itself is a considerable savings when you consider that clients are tested approximately two times per week for one year and there are over 100 clients in the Prop 36 program alone.

- 2. The BOS should direct the CEO to work with Drug Court to study and determine the best way to deliver drug recovery programs within the County.**

Prior to the incident in 2000, Drug Court referred clients to three programs: Lovett, CORR and MIR. Since the client complaint in 2000, Probation has referred all drug court clients to the more expensive CORR program. This has increased expenses in this area considerably.

- 3. The BOS should direct the CEO to ensure that BH reestablishes good working relationships with all related county and external agencies in order to provide county-led recovery programs accessible to all qualified participants.**

The MIR Program Facilitator has worked successfully with other Probation Officers and other departments for some time. This is especially true since she stopped participating in Drug Court due to the client's complaint letter and since the transfer of the previous Prop 36 Probation Officer. Letters of recommendation can be provided to support this if requested.

- 4. The BOS should direct the CEO to ensure that BH management strictly adheres to personnel code requirements regarding timely and accurate employee evaluations and that all supervisors, managers, and directors are held accountable for maintaining a supportive and cooperative work environment for county employees.**

Part of the reason the employees filed the complaint against their supervisor in early 2005 was because they had received no support from the Department Director when they made their complaints. Not only was the environment not "supportive and cooperative", but it was threatening and hostile.

- 5. The BOS should direct the CEO to take immediate action to determine the root cause of the current hands-off management style within BH and work to cleanse the department of the atmosphere caused by a failure to appropriately discipline staff. Such action should include progressive discipline, letters of reprimand, administrative leave, suspension and/or termination.**

The morale within this department remains at an all time low. There exists a pervasive environment of fear especially since other employees have seen the retaliation, which the complainants have suffered since filing their complaint. This type of atmosphere negatively affects employees work performance and attitude.

In closing I would like to point out that a recent report on the reform of California's Grand Jury system published by the McGeorge School of Law's The Capitol Center states that: "While secrecy encourages witnesses to come forward, unsupervised grand jurors go astray. Unchecked, grand juries "expose individuals to attack or allegations of misconduct, and those individuals may be unable to defend themselves due to the secretive nature of the grand jury process." Even if charges are not brought, a person's reputation may still be damaged when the grand jury investigates him or her."

I believe that is what has happened in this case. I do not know who is responsible for supervising and training the Grand Jurors, but clearly the Board of Supervisors should pursue additional training in investigative techniques for all current and future Grand Juries.

Additionally, Grand Jury members would do well to remember that they are not immune from liability for defamation.

Thank you for patience and attention.