

ATTACHMENT A

The Experience of San Francisco County

Not only like Santa Clara County in terms of geographic location, San Francisco County endures a homeless crisis akin to its Silicon Valley counterpart, with mentally ill homeless individuals in the streets almost embedded in its culture. San Francisco County, per its county website, is estimated to host 8,011 homeless individuals as of 2019.¹ A key point of divergence between San Francisco and Santa Clara Counties stems from what is being done to address the crisis of mentally ill individuals abandoned on the streets. San Francisco adopted Laura's Law in 2015, and the overwhelmingly favorable results prove to be a compelling indicator of the possible benefits the law could provide to Santa Clara County.

A report from the SF Chronicle reveals that of the 82 mentally ill people referred to the city under Laura's Law, 81% said they felt hopeful about their future.² Investigation of further empirics from the San Francisco Health Network in March 2019 display that 91% of Laura's Law patients saw reduced hospitalization, with 88% experiencing reduced time spent incarcerated and 74% reducing use of Psychiatric Emergency Services.³

For these reasons, the San Francisco Health Network determined that "there is substantial evidence that indicates that implementation to date can be considered a success."⁴

The Experience of other California Counties

A meta-analysis of all counties in California currently enforcing Laura's Law conducted by the Treatment Advocacy Center from February 2019 declared that "all county Laura's Law programs for which outcome data are available have experienced decreases in psychiatric hospitalizations, crisis contacts, incarcerations and/or homelessness among Laura's Law enrollees."⁵ In fact, the meta-analysis confirms San Francisco's remarkable drop in costs, noting that "the average service costs to California counties for implementing Laura's Law are far less than the annual costs of incarceration or of inpatient psychiatric care."⁶

¹ "City Performance Scorecards." *Homeless Population | City Performance Scorecards*, 24 Jan. 2019, sfgov.org/scorecards/safety-net/homeless-population.

² Knight, Heather. "Laura's Law Is Helping Many - but Still Only Making a Dent in SF." *SFChronicle.com*, San Francisco Chronicle, 10 Mar. 2018, www.sfchronicle.com/news/article/Laura-s-Law-is-helping-many-but-still-only-12742813.php.

³ "San Francisco's Assisted Outpatient Treatment Program: Three-Year Evaluation Report." *Harder Co*, San Francisco Health Network, Mar. 2019, www.documentcloud.org/documents/5973331-AOT-Report-Final-03-28-19.html.

⁴ Ibid.

⁵ *Results from a California Survey Assessing the Use of Laura's Law*. Treatment Advocacy Center, Feb. 2019, www.treatmentadvocacycenter.org/storage/documents/final_web_2019_a_promising_start.pdf.

⁶ Ibid.

Looking specifically to Nevada County, where Laura's Law was first implemented, the County's Behavioral Health Department found that the law saved between \$1.81 to \$2.52 per \$1.00 invested in the program.⁷

Laura's Law has attained unanimous success across the State of California, lowering treatment costs and increasing patient wellbeing substantially. Santa Clara County must implement Laura's Law to be able to access the same kind of exceptional results realized by other counties.

Counterargument: Violation of Civil Liberties; Criminalization of Mentally Ill

For a patient to qualify for Laura's Law, they must be either "gravely disabled" or "a serious risk of harm to himself or others."⁸ The individuals that are being assisted by this legislation are those who are in desperate need for it, yet refuse care and treatment: directly against their own best interests. Laura's Law very clearly delineates specific parameters that must be met to be eligible under the program, safeguarding against any threat of law enforcement abusing the system. Subsequently, referrals to the program must be made by either a family member or a medical professional, eliminating any possibility of an ill-advised designation.

The vast majority of treatment under Laura's Law is voluntary; in San Francisco, for example, only 17% of Laura's Law cases stemmed from a court mandate.⁹ Thus, the notion that Laura's Law criminalizes the mentally ill or violates their civil liberties is fundamentally ill-founded. The legislation ensures that the incorporation of an individual into the program is in their best interests, and the treatment received in most cases is voluntary— benefiting the mentally ill substantially.

Counterargument: Too Narrow to be Effective; No Forced Medication

On the opposite end of the spectrum, some argue that Laura's Law does not have a wide enough scope to be effective; however, the provisions, checks, and balances in the legislation that do narrow down its scope are intended to maintain that those who are in the program are there in their absolute best interest. While the Law in San Francisco treated the relatively small number of 82 people last year, nonetheless, those 82 people being helped are 82 more than in Santa Clara County.

Similarly, concerns with Laura's Law arise because of its inability to forcibly medicate patients, hindering its potential efficacy. If a patient is determined to require higher and more intensive

⁷ Michael Heggarty. "The Nevada County Laura's Law experience." Behavioral Health Department, Nevada County, Nevada County, CA, November 15, 2011.

⁸ "California Laura's Law Guide (Assisted Outpatient Treatment): PDF." *Mental Illness Policy Org*, The California Treatment Advocacy Coalition and the Treatment Advocacy Center, Sept. 2009, mentalillnesspolicy.org/states/california/a-guide-to-lauras-law-californias-law-for-assisted-outpatient-treatment-pdf.html.

⁹ Knight, Heather. "Laura's Law Is Helping Many - but Still Only Making a Dent in SF." *SFChronicle.com*, San Francisco Chronicle, 10 Mar. 2018, www.sfchronicle.com/news/article/Laura-s-Law-is-helping-many-but-still-only-12742813.php.

levels of care, they can be referred from the Laura's Law treatment to an LPS (Lanterman-Petris-Short) Conservatorship, as 12% of Laura's Law patients were in San Francisco.¹⁰ LPS Conservatorships provide for involuntary medication for those who absolutely need it.

Conservatorships

Existing Law: LPS Conservatorship

An additional degree of restriction above assisted outpatient treatment, conservatorship is the legal concept of a guardian, or conservator, managing an individual, the conservatee's, affairs due to any difficulties— such as mental health— the conservatee may have in making decisions on their own.

The State of California and the County of Santa Clara employ LPS Conservatorship, established in 1972 with the LPS Act. The Act was passed in response to decades of notoriously nebulous detainments of mentally ill people under inhumane conditions in California. The LPS Act initiated the first statutes and codified procedures for treatment of severely mentally ill people, including responsible detainment processes and the establishment of rights for conservatees in locked facilities.¹¹ Within an LPS Conservatorship, the conservator can assume responsibility over a mentally ill person for a period of one year before applying for renewal. Obtaining a conservatorship requires an examination performed by a psychiatrist as well as the Office of the Public Guardian to eventually determine if the individual is “gravely mentally disabled.”¹²

Why Bolstering Conservatorship is Necessary

The following is an anecdote from CalMatters, a California-based non profit which reports on state issues and politics:

“For years, Diane Shinstock, a Roseville resident, watched her son deteriorate on the streets. Suffering from severe schizophrenia, he slept under stairwells and bushes, screamed at passersby and was arrested for throwing rocks at cars.

Sometimes he refused the housing options he was offered. Sometimes he got kicked out of places for bad behavior. Shinstock, who works on disability issues for the state of California, begged mental health officials to place him under conservatorship — because he was so sick that he couldn't provide for his most basic personal needs of food, clothing and shelter.

¹⁰ “ San Francisco's Assisted Outpatient Treatment Program: Three-Year Evaluation Report.” *Harder Co*, San Francisco Health Network, Mar. 2019, www.documentcloud.org/documents/5973331-AOT-Report-Final-03-28-19.html.

¹¹ “History.” *NAMI California*, namica.org/about-us/history/.

¹² “LPS (MENTAL HEALTH) CONSERVATORSHIP.” *The Superior Court of California, County of Santa Clara*, www.sccourt.org/self_help/probate/conservatorship/conservatorship_lps.shtml#locked.

But county officials told her, she said, that under state law, her son could not be conserved; because he chose to live on the streets, he did not fit the criteria for ‘gravely disabled.’ ‘I was devastated,’ she said. ‘I cried for days.’

So Shinstock — along with her husband Joe, a policy consultant who works for Republican leadership in the Assembly—set out to change state law. Their uphill battle illustrates the complex philosophical, legal and ethical questions that surround conservatorship in California.

What responsibility does government have to protect people with serious mental illnesses who refuse treatment? How should it balance the right to liberty with the need for care?

Aimed at safeguarding the civil rights of one of society’s most vulnerable populations, the Lanterman - Petris - Short Act put an end to the inappropriate and often indefinite institutionalization of people with mental illnesses and developmental disabilities.

It also provided them with legal protections, such as the now-familiar rules in California limiting involuntary holds on people deemed a danger to themselves or others to 72 hours, better known as a 5150 hold.

Those who support conservatorship believe Lanterman - Petris - Short’s protections too often prevent very sick people from accessing the help they need.”¹³

Senate Bill 1045 and Senate Bill 40

Building on SB 1045, SB 40 was introduced by Senators Wiener and Stern to the California Senate in March 2019. SB 40 clarifies and further expands the framework for conservatorship, most notably removing the requirement that individuals must undergo outpatient treatment—such as Laura’s Law— before being referred to conservatorship.¹⁴ This modification is of paramount importance because it, again, opens up more opportunities to care for the most vulnerable; KQED cited that “specialists agree that the drug users who conservatorship is intended to reach aren’t good candidates for [outpatient treatment]... doctors also say such a requirement gets in the way of providing help.”¹⁵ In this way, SB 40, just like SB 1045, extends a helping hand to those who have been neglected by the status quo.

In summary, the provisions in SB 1045 and SB 40 represent ever-necessary updates to LPS Conservatorship to allow for effective, comprehensive mental health treatment. Santa Clara

¹³ Wiener, Jocelyn. “Why Is It so Hard to Get Mentally Ill Californians into Treatment?” *CalMatters*, 30 Aug. 2018, calmatters.org/health/2018/08/california-homeless-mental-illness-conservatorship-law/.

¹⁴ Dillon, Raquel. “Should S.F. Be Able to Compel Mentally Ill Homeless People Into Treatment?” *KQED*, 25 Apr. 2019, www.kqed.org/news/11742865/should-s-f-be-able-to-compel-mentally-ill-homeless-people-into-treatment.

¹⁵ *Ibid.*

County, must join with San Francisco and Los Angeles and better serve its residents and cement its place as a progressive leader in mental health reform.

Counterargument: Not Enough Resources to Conserve

A significant point of contention regarding the aforementioned Senate Bills involves skepticism over the availability of resources when conserving mentally ill individuals. Disability Rights California claims that “SB 1045 does nothing to ensure that the proposed conservatees under the expansion will be provided adequate housing, food, clothing, or medical and behavioral health care if a conservatorship is established.”¹⁶

SB 1045, however, does account for this, as stated on the bill’s fact sheet: “Before an individual is conserved, a presentation and declaration of available resources must be made to the judge in order to assure that the individual will have the necessary care provided by trained staff.”¹⁷ SB 1045 has the best interest of mentally ill individuals in mind, and ensures that they receive the proper care that they have struggled to receive.

Counterargument: Intrusions on Civil Liberties

Similar to Laura’s Law, some argue that bolstering conservatorship violates the civil liberties of those conserved. It is important to recognize, however, that the services provided to the individual are in their absolute, objective best interest. If an individual is impaired to the severe extent of not having the capacity to make decisions that are in their best interests, access to potentially self-destructive liberties is the most egregious disservice that the County can do. The privilege of being properly cared for far outweighs the privilege to suffer obliviously. As Senator Weiner posits, “It is neither compassionate nor progressive to allow people to die on our streets when we have the ability to help them.”¹⁸

SB 1045 and SB 40 both provide for extensive legal processes to be certain that the people being helped are accessing the best possible option for themselves. Thus, the legislation is specific and exact enough to the point that it would only conserve “approximately 50 of the most acute individuals in San Francisco per year,” according to the San Francisco Department of Public Health.¹⁹

¹⁶ “SB 1045 (WIENER) (Amended May 1, 2018) – OPPOSE.” *Disability Rights California*, 8 May 2018, www.disabilityrightsca.org/system/files/file-attachments/SB1045WienerConservatorshipChronicHomelessnessMentalIllnessOppose2018May8.pdf.

¹⁷ *SB 1045 - Improving California Conservatorship Law*. Senator Scott Weiner, 20 Apr. 2018, sd11.senate.ca.gov/sites/sd11.senate.ca.gov/files/sb_1045_conservatorship_fact_sheet_4-20.pdf.

¹⁸ Weiner, Scott. “New Laws I Authored Take Effect! - Scott Wiener.” *Medium*, Medium, 2 Jan. 2019, medium.com/@Scott_Wiener/new-laws-i-authored-take-effect-61e6fd11d71.

¹⁹ Breed, London. “Board of Supervisors Approves Conservatorship Legislation Introduced by Mayor London Breed and Supervisor Rafael Mandelman | Office of the Mayor.” *Office of the*

Mayor, City and County of San Francisco, 4 June 2019, sfmayor.org/article/board-supervisors-approves-conservatorship-legislation-introduced-mayor-london-breed-and.