

THE MILLION DOLLAR INMATE?

June 27, 2006

Summary

Pick up a newspaper
Log on to the Internet
Watch television
Better yet, talk to your friends, neighbors, associates.

They will confirm that there is a health care crisis in Sonoma County. All aspects of health care are affected, as are all members of the community. Here are just a few recent newspaper headlines:

Doctors in Crisis: In a Press Democrat survey, over one half of Sonoma County physicians are considering retiring or moving out of Sonoma County.

Medicare, Medi-Cal cuts hit doctors: Poor, elderly may lose coverage as county physicians face a combined rate drop of nearly 10%.

Looking for cohesive health care: A survey of 7000 conducted by RAND found that they received the recommended care only 55% of the time.

Health Insurance Imploding: Major corporations slash health care benefits. An estimated 45 million people nation wide lack health care coverage. The situation is not expected to improve.

Pensions facing double whammy: Funding deficits are a major problem for corporate benefit plans. Companies will have to add pension plans and retiree health care costs to balance sheets.

Employee's out of pocket health care cost: Doubled since 2000 and is expected to rise.

Changes at Warrack: Officials meet with employees amid rumors of service cutbacks and layoffs.

Sutter Selling Two Clinics: These clinics are located in Rohnert Park and Santa Rosa.

All of this is taking place in a period of significant financial crises for the county and its cities. The City Hall News reported that in developing the 2005-2006 budget all Santa Rosa city departments were asked to cut 5%. This concern for tightening the budget was verified by reviewing the county's Final Budget Report. Although revenues from property tax exceeded expectations, it was not possible to reinstate all the items cut. The county still faces significant financial challenges:

- The State's continued divestiture of programs the County administrates. These typically reside within the health and human services portions of the budget
- Increases in baseline health costs and flat funding
- A recognized need for the county to live within its means and balance the budget
- An annual budget compiled with long term stability in mind
- Programs financed by charges shall pay their full share of direct and indirect costs.

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Throughout the previous budgets, as well as the current budget, the message is that significant attention be paid to financial restraint.

The Sonoma County detention facilities are no exception to the financial challenges facing the county, nor are they exempt from the financial impact of health care issues. There is a growing inmate population that now exceeds the capacity of the existing facilities. This is due to lengths of trial procedures, coupled with the complexity of trials due to multiple defendants, gang issues, and sentences that mandate jail terms. Inmate hospital costs are rising. The department budgeted \$150,000 for medical care not related to mental health. The bills have already totaled \$622,474 for the budget year ending in June of 2005, and an estimated \$300,000 is still outstanding.

Sonoma County Detention Facilities medical cost? These are county jails. The County Jail's purpose is to detain people who are accused of or have been convicted of a crime. Why is the county paying for medical care for inmates? The answer is California Code of Regulations (CCR), Title 15. The fact is that the inmate population is one of the few groups of people guaranteed by law to receive medical and mental health treatment. Penal code 6030 mandates medical treatment for inmates. Title 15 sets the minimum standards for that care. While the primary purpose of the detention facilities is to provide safety and security for the community, they are also charged with providing for the medical well being of the inmate population.

Title 15 sets the minimal standard of care for inmate health services. That standard, in general is to be "consistent with the care provided in the community at large". Because of this, the care being provided by the detention facilities must be reviewed in the context of the care provided in the community. As a County department supported with public funds, it is the responsibility of the detention facilities to provide the mandated care in the most efficient and economical way possible.

In the midst of this, how are Sonoma County Jail inmates medical services handled? Currently the provision of medical care to inmates in the detention facilities is provided by a vendor acting as an independent contractor, California Forensic Medical Group. The services provided and the fee for those services are set out in a Memorandum of Understanding (contract.) The original contract with CFMG went into effect February 1, 2000. In June of 1999, the county asked for bids for the provision of health care services for the adult detention facilities, as facility accreditation with California Medical Association had been lost at that time. These services previously had been provided by another contractor. CFMG was selected as the new provider. The stated basis for that selection was their ability to provide a high quality of health care. The jail administration's primary goal was that in choosing CFMG, the facility would regain accreditation within the first year. It is not known whether they were the low bid or not.

Reason for Investigation

This report was initiated as the grand jury became aware of substantial cost overruns in jail medical expenses. The grand jury is aware of the community's concerns about health care, access to health care, and rising medical costs. In a Press Democrat article, a spokesperson for the Sheriff's department stated that if it had not been for these cost overruns it would have been possible to have more patrols on the street.

The chart below is a summary of the actual and estimated cost of overruns for the years 1998 through 2007:

1998-2002	\$53,000	average cost overrun per year
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2002-2003	\$120,000	actual cost overrun
2003-2004	\$282,081	actual cost overrun
2004-2005	\$822,037	actual cost overrun
2005-2006	\$850,000	estimated cost overrun for current fiscal year
2006-2007	\$721,000	budgeted estimated cost overrun

Background

Prior to 2000, jail medical services had been contracted by another provider. The state of affairs at that time was that various public and controversial elements were swirling around the jail operations. Within the county jail there had been multiple deaths, three suicides, and two drug related withdrawal incidents during the period 1996-1998. Additionally, citizens' watch groups were petitioning the authorities for various grievances; the grand jury completed a report in 1998 regarding jail deaths, and as mentioned, the facility loss of accreditation from the Institute for Medical Quality. In June 1999 the county approved bidding process was initiated and sent to seventeen professional medical providers. There were three responses. A unanimous decision was made to award the bid to California Forensic Medical Group. It appears that CFMG began their work in December of 1999. The initial contract was effective beginning February 2000. The IMQ accreditation was regained in 2001. The contract was renewed with essentially the same provisions in 2005.

The contract was a three-year agreement with an option for two additional years. The options were exercised extending the contract to January 31 2005. It was a flat fee contract, that is, a flat annual cost per year to be increased annually by the Consumer Price Index (CPI) Medical Care Component (San Francisco Oakland.) Under the general terms of the contract:

- The county does not control the means by which the contractor achieves results, but does have the right to specify its expectations regarding results and to put those in the contract
- The contract does not specify the scope of medical services to be provided, nor whether it is the county's intent to provide maximum or minimum premises service
- It sets no parameters on outside referrals
- It places a cap of \$15,000 per hospitalization event cap on CFMG's financial obligation for off-site care
- The only actual specifications regarding health care standards are that they must meet CMA standards for accreditation and follow "generally accepted health care practices"
- The contractor accepts all responsibility for loss or damage caused by CFMG and/or CFMG and the County jointly regardless of who is insured, who is named in a claim or lawsuit
- The county is to be named as an additional insured and that such insurance be primary. Any insurance held by the county is to be non-contributory
- 30-day notice of cancellation is required and the contractor's obligations are not limited by insurance coverage
- The contractor is obligated to notify off-site providers of any insurance the inmate has
- Also attached to it are minimum staffing levels. The Full Time Equivalent specified is 29.6.

The original contract expired January 31, 2005. The County declared itself extremely satisfied with CFMG. The contract was renewed for two years with two additional one-year options. Essentially the same provisions applied except that the required insurance limits were reduced.

Although the original contract specified only a CPI index increase each year, the 2004-2005 increase was \$1,018,956. The contract price was increased by \$685,000, with the initial year's

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annual cost of \$4,655,484. (A 28.1% increase.) The primary reason given for requesting this increase was the dramatic increase in nursing salaries. Only historical per hour salary increase information was provided. No specific staffing or actual salary/benefits information was provided.

No Requests for Proposal were required. It was decided that a Request for Proposal (RFP) was not required because continuing with CFMG was the most “effective” and “economical” method of providing inmate medical services, and was considered to be “in the best interest of the county”, beyond 2005. The primary basis cited for this conclusion was a Sheriff’s department analytic report indicating that this was the “most effective and economic” alternative. Review of the report indicates that it contains only anecdotal information. No quantifiable, specific, verifiable, or objective information is cited.

Also cited was the CMA report of 2003 that rated the detention facility as in 100% compliance with all of their “Essential” and “Important” standards. Review of the CMA/IMQ Report indicates that Sonoma County detention facilities meet 100% of standards and quote 90% of inmates as being satisfied with the medical care provided.

It is also necessary to determine what services have been purchased for the contract fee of \$4,655,484, as well as what is not included in the contract fee. The 2005 Annual Report of Services from CFMG states that the goal of CFMG is to exceed all standards of CMA requirements. Although statistics are not consistent from report to report, the approximate figures indicate that:

- 41% of the population is on medication. Other reports indicate 50%
- 42,000 medications are dispensed per month for a total of 504,000 annually.

This appears to be an incredible amount of medication for an average population of something over 1100 inmates, until it is realized that this figure counts each pill and includes what elsewhere would be termed “over the counter” drugs. The only two “medications” not included in these figures are antacids and Tylenol. All others are dispensed by nurses.

It is indicated that 7% of the population is seen “face to face” in clinics (73), while in another report it is indicated as being 60. One statistic indicates 15 non-emergency and 5 emergency referrals per month, while another statistic received was that there are 30 referrals per month. This would total either 240 or 360 referrals. Of these, the report reviewed only 15 to conclude the referrals were in order. The number of referrals was used to show that the provider “strives to offer comprehensive care.” No writs of habeas corpus were indicated. Five complaints were received and all were denied by the County. Despite the insurance provision in the contract, CFMG was not an active participant in handling these claims. From 2000-2004, there was a 33% increase in medication dispensed (from 357,000 pills to 538,000 pills). Visits by PA, RN, MD, DDS increase by 1059 from 2000 – 2004. Emergency room visits dropped by 15 from 2000-2004. There were 8 suicide attempts in 2004, down slightly from the average of 10. Grievances remained even 2000 to 2004 (165 to 166).

By sheer numbers, the dispensing of what elsewhere would be considered OTC medication requires a significant time and dollar commitment. All but the two items indicated previously, Tylenol and antacid are being distributed by nurses. When it is considered that the average daily population stands at about 1150 and the average time in detention has dropped slightly and is currently approximately 25 days, there appears to be a lot of non-prescription medication dispensed by highly paid professionals.

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The Sheriff's department has stated that its highest priorities are the County's ability to respond to terrorism and to continue to address gang violence. Because of budget constraints, the County's budget was initially reduced by \$3,375,000. Among the many reductions for the Sheriff's department were:

- Reduced salary and benefits for officers
- Elimination of some department positions
- Overtime reductions
- Training expenses.

The \$685,000 increase in the flat contract fee paid to the jail medical provider might have been used to reinstate such actual cuts as:

One Detective and one Patrol Lieutenant	\$184,300
Funding for "new hire" training for 6 Deputy positions	\$306,826
Salary savings at MADF	\$200,000
And put back some of the reduced Patrol salaries	\$173,794
For a total of:	\$685,000

Coincidentally, the gross expenditures for catastrophic medical expenses, paid for by the County in addition to the contract fee paid to the contractor, had to be re-budgeted to \$696,000, which would have been paid for by the increase in the CFMG contract.

The grand jury recognizes that the primary purpose of the detention facility is the safeguarding of the community. It also recognizes the fact that the corrections facilities cannot make medical decisions. However, they are charged with providing that care by the most effective and economical means possible.

It is possible that continuing the contract with CFMG was, in fact, "in the best interest" of the County and is the most effective and economical way of fulfilling their obligation. Unfortunately, there is no way to prove or disprove this.

No actual expense information was provided at contract inception. Since the contract is a "flat" contract, no current expense information is available.

No objective, empirical or quantifiable standards are in place for measuring the success of the program. The only standards used are the Institute for Medical Quality (IMQ) standards.

Much of the record keeping is manual; therefore, statistics are not always consistent. Additionally, the medical cost per inmate that is reported to the State is obtained by dividing the contract price by the average inmate population. It does not include any payments made for "catastrophic" losses (those exceeding the \$15,000 cap on CFMG obligation for off site care). Neither does it include any litigation expenses or transport costs. Actual total costs are difficult to determine because they reside in different departments. No allocated expenses are charged to the vendor. There is no consistency county to county on what is included in the figure sent to the state.

Investigative Procedures

Interviews: Sheriff's Department Captain, Main Detention Facility; Captain, Facility Manager; Administrative Services Staff; Forensics Program Manger; Section Manager, Forensics and

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Special Programs; Deputy County Administrator; Various administrators and employees of California Forensic Medical Group; County Counsel;

Documents reviewed:

- Penal Codes 4011.10 and 6030
- Health and Safety Code 101045
- California Code of Regulations, Title 15, Division 1, Chapter 1, Subchapter 4, Health Guidelines, Program and Procedure Guidelines: Minimum Standards for Local Detention Facilities.
- California Forensic Medical Group, Annual Reports of Medical Services
- CFMG Formulary
- CFMG Medication Statistics 2003-2005
- CFMG County Cost Comparisons, 2005-2006
- Non-CFMG County Cost Comparisons F/Y 2002-2003
- Sonoma County Salary Schedule Hourly Rates, 2005
- Sonoma County Transportation Reimbursement F/Y 2004-2005
- Mental Health Jail Services FTE Salary Information F/Y 2005-2006
- Benefits Source Book, Employee Benefit News, Benefit Cost Highlights, 2005
- Analysis, Inmate Health Care Contract Memorandum of May 2, 2004
- Summary Report for Board of Supervisors/Memorandums of Understanding dated February 2000, 2003, 2005
- CPI Index-Medical-San Francisco and Oakland, 2001-August 2005 Agreement for Medical Services for Inmates effective Feb. 1, 2000
- California Department of Corrections Jail Profile Survey Annual Report, 2003-2004
- CFMG Overview of Services Provided
- Detention Facilities Historical ADP and Average Stay, 1994-2005 and 2006 Budget
- Detention Facility Medical Standards/Procedures: Clinic Operations, Cost Recovery for Transportation and Security, Equipment Inventory, Hospitalization/Emergency Treatment, Off-Site Medical and Dental Appointments, Staff Members Administering Medications, Medical Co-pays, Medication Rounds, Triage and Sick Call
- Various Insurance documents
- Senate Bill 159, Approved October 4, 2005, re: Contracts for Health Care Services
- Final Budget for Sonoma County F/Y 2005-2006, F/Y 2004/2005, F/Y 2003/2004
- City Hall News, Week of August 22, 2005
- Proposition 63, Mental Health Services Act
- Sonoma County Sheriff Budget and Sub-Object 6654 Detention Administration expenditures, 2001-2006
- Institute for Medical Quality Accreditation Standards for Adult Detention Facilities, 1998 First Edition; 2001 Edition
- IMQ Assurance Corrections and Detention Health Care Accreditation Report, July 2003 (two year report)
- <http://www.oal.ca.gov/>
- Santa Clara Grand Jury Report 2004/2005; Santa Clara Eight County Comparables 2003-May, 2004 Findings.

Findings

F1. There is no clear demarcation of responsibilities between corrections and the medical provider except to state that detention does not make medical decisions.

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- F2. Audits are not independent. The vendor self-audits. The outside auditor is hired by the provider. Quarterly quality meetings are voluntary and attendance is sporadic. There is no agenda. No minutes are kept. Cooperation in decisions between departments depends on good will.
- F3. Until January 2006, the county was not involved in negotiations with outside providers regarding pricing. A third party vendor hired by CFMG negotiated what discount arrangements there were.
- F4. No empirical, objective, and quantifiable standards are in place for measuring the success of the program.
- F5. No empirical, objective, and quantifiable standards are in place for determining what is the most effective and economical method of handling jail medical services.
- F6. The county has no verifiable statistical information of the actual cost of the program to the vendor.
- F7. There is no preferred provider list in place.
- F8. Record keeping is to a great extent manual, making it difficult to make changes or to evaluate alternatives.
- F9. Non-prescription (OTC) drugs are administered only by professionals.
- F10. Required additional insured endorsements are not on file.
- F11. No study is being conducted to examine the potential impact of the changing realities facing the county detention facilities.
- F12. The reason for entering into a flat contract was to pass on the expense risk associated with health care. Cost overruns demonstrate that was not the result. When the county agreed to increase the contract by \$685,000, they re-absorbed that risk.

Conclusions

It is clear that the original contract with CFMG was adopted in a hostile climate of negative media exposure, adverse public reaction to situations in the jail, and the concern about potential litigation. Under these circumstances, using CMA accreditation as a primary driver for a successful jail medical program might well have been justified. Time has moved on, however, and realities have changed. While potential litigation is always a concern, a Santa Clara survey of eight counties throughout the state indicates it is far from a primary concern. The survey further indicates that some counties have chosen to forgo meeting Title 15 and/or CMA standards in consideration of budget restraints. All counties surveyed show budget reductions and the rising cost of care to be the primary drivers. The challenges presented by the dual obligation of providing health care to inmates, and doing it in the most effective and economical way is being dealt with by county officials whose primary obligation is to provide a safe and secure community. Sonoma county statistics parallel those indicated in the survey. For the period 2000 through 2005, the average number of claims going beyond detention center administration was seven per year. Out of the forty-three claims, 29 were handled without cost to the county. While there were spikes in 2001 and 2004 in litigation costs, overall costs, even in those years remained within acceptable parameters. Health care, especially for inmates, presents challenges quite outside the scope of their primary function.

The general standard set by Title 15 is that the medical care in the jail reflects that in the community. All information received by the grand jury indicates that the standard of care in the jail greatly exceeds that of the community. Changing circumstances mandate close attention to inmate medical care, especially in light of the past several years of severe cost overruns. Expert monitoring and oversight by the county have become mandatory. If that is not accomplished, it is reasonable to expect that down the road the county jail medical will have at least one "Million Dollar Inmate."

The County Administrative Office has also expressed interest in the "catastrophe" medical challenge and has begun a project to examine the issue.

Commendations

The grand jury reviewed possible overtime costs for transportation issues utilizing custody staff in overtime pay for fiscal year 2004/2005. A laudatory note must be given to the Sheriff's transportation staff for conducting over 240 inmate transports, which incurred only 6.5 hours of overtime. This overtime was charged on two instances for a single inmate.

Recommendations

- R1. Create a clear delineation of program responsibilities between corrections and the medical provider.
- R2. Conduct a study to determine the most efficient and economical method to address jail medical issues.
- R3. Consider retaining a consultant, possibly an actuary, who is able to do a cost benefit analysis on the alternatives for handling jail medical costs.
- R4. Consider the use of a physician-monitor to review and assess the quality and appropriateness of medical care.
- R5. Examine the possibility of obtaining catastrophe insurance coverage for jail medical.
- R6. Audits should be conducted by an agency independent of the medical provider.
- R7. Make quarterly quality meetings mandatory, with an agenda, attendance log, and minutes, which shall be kept for future reference. All affected departments will send a representative, if the department head cannot be present.
- R8. Negotiate contracts with off-site providers pursuant to SB 159 regarding pricing. A study conducted by the County Administrator (actuarial consultant) will be used to determine whether a contract or no-contract agreement is most advantageous for the county.
- R9. Develop quantifiable, objective, and empirical standards for measuring the success of the medical program.
- R10. Develop quantifiable, objective, and empirical standards for the most effective economical method for handling jail medical services.
- R11. Develop a method for determining the actual cost of the medical program to the county.

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- R12. Require expense-based information to be used to determine whether the contract price is commensurate with the cost of services rendered.
- R13. Develop a list of preferred physician providers.
- R14. The Sheriff's Department and Information Systems Department should explore and develop technological improvements in tracking county jail medical services.
- R15. The Sheriff's Department and medical provider should develop alternative methods of distribution for other-than-prescription medications - specifically distribution through commissary or vending machines.
- R16. Obtain from the medical provider the required insured endorsements.
- R17. Create a task force to examine the changing realities effecting health care in the county detention facilities.

Required Responses to Findings

None

Requested Responses to Recommendations

None

Required Responses to Recommendations

Sonoma County Sheriff – R1, R2, R4, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R17

Board of Supervisors – R11, R12, R17

Sonoma County Administrator – R1, R2, R3, R5, R8, R9, R10, R11, R12, R17

Sonoma County Risk Management – R1, R4, R5, R15, R16, R17

Information Systems Department - R14