



**NAPA COUNTY GRAND JURY
2019-2020**

FINAL REPORT

August 1, 2020

**NAPA COUNTY PROBATION DEPARTMENT
AND DEPARTMENT OF CORRECTIONS
CONTRACT ADMINISTRATION:
*Who is Minding the Store?***

**NAPA COUNTY PROBATION DEPARTMENT AND DEPARTMENT OF
CORRECTIONS CONTRACT ADMINISTRATION**

Who is Minding the Store?

August 1, 2020

SUMMARY

The Napa County Department of Corrections (NCDC) and Napa County Probation Department (NCPD) are responsible for ensuring the health services mandated by Title 15, Minimum Standards for Local Detention Facilities and Title 15, Minimum Standards for Juvenile Facilities (Title 15).¹ To satisfy that mandate, the Napa County Board of Supervisors (BOS) entered into Professional Services Agreement Number 1902018 (Wellpath Agreement) with the California Forensic Medical Group (CFMG). Exhibits “A” and “B” to the Wellpath Agreement call for the preparation and retention of numerous written records relating to the health services provided at Napa County Jail (NCJ) and Napa County Juvenile Hall (NCJH).

The 2019-2020 Napa County Grand Jury (Jury) requested an opportunity to examine the Wellpath administrative documents related to healthcare. The Jury found that most of the documents required by the Wellpath Agreement were not initially in the possession of either the NCDC or the NCPD and appear to have never been requested from Wellpath. The absence of this documentation led the Jury to wonder how these two departments could determine if Wellpath was performing the services for which it was being paid. Further investigation disclosed payment procedures identified in the Wellpath Agreement and the Napa County Auditor-Controller’s Office accounts payable procedure were not being followed and apparently were not fully understood by individuals responsible for carrying out these procedures. The failure of the NCDC and NCPD to have the Wellpath documentation in their possession and the questionable handling of Wellpath invoices raises serious concerns as to the administration of the Wellpath Agreement.

This report does not address the medical care provided to detainees in Juvenile Hall or those incarcerated in the County Jail.

GLOSSARY

BOS: Napa County Board of Supervisors

BSCC: State of California Board of State and Community Corrections

CFMG: California Forensic Medical Group, Inc.

CQI: Continuous Quality Improvement Program

HSA: Health Services Administrator

HHSA: Napa County Health and Human Services Agency

NCJ: Napa County Jail

NCJH: Napa County Juvenile Hall

NCDC: Napa County Department of Corrections

NCPD: Napa County Probation Department

¹ <http://www.bscc.ca.gov/wp-content/uploads/Adult and Juvenile, Titles-15-Effect-4-1-17.pdf>

QMC: Quarterly Quality Management Committee

QMP: Quality Management Plan

RHA: Responsible Health Authority

TITLE 15: Minimum Standards for Local Detention Facilities, Crime Prevention and Corrections, Division 1, Chapter 1, Subchapters 4 and 5

Wellpath Agreement: Napa County Agreement No. 1902018, Professional Services Agreement, entered into between Napa County and California Forensic Medical Group

METHODOLOGY

During its inquiry, the Jury

1. Conducted a tour of the Napa County Detention Facilities, both the Jail and Juvenile Hall
2. Conducted ten individual interviews of the following:
 - Two members of the NCPD Administration
 - Napa County Director of Corrections
 - Two members of the NCDC Administration
 - One member of HHSA
 - Three medical personnel
3. Reviewed the following documents:
 - Title 15, Minimum Standard for Local Detention Facilities
 - Title 15, Minimum Standards for Juvenile Facilities
 - Wellpath Policies and Procedures Manual, Napa County California – Adult
 - Wellpath Policies and Procedure Manual, Napa County California – Juvenile Hall
 - Professional Services Agreement between California Forensic Medical Group and Napa County
 - NCJ Policy and Procedure Manual
 - NCJH Policy and Procedure Manual
 - Standards and Training for Corrections Program (STC) - Course Certification Information
 - Standards and Training for Corrections Program (STC) - Annual Course Roster November 6-8, 2018

BACKGROUND

The Napa County Grand Jury is required by the California Penal Code to “inquire into the condition and management of the public prisons within the county.” During this inquiry, the Jury learned that the County is required to provide medical and mental health care for the Juvenile Hall detainees and those incarcerated in the Napa County Jail. This care is provided by means of a Professional Services Agreement with CFMG.² The initial base fee (January 2019) was \$3,156,309 per year. This fee is increased annually beginning July 1, 2019, based on Bureau of Labor Statistics data.

The Jury investigated the County’s administration of the Wellpath Agreement.

DISCUSSION

² This Agreement is a continuation of an earlier agreement between the County and CFMG

The County of Napa entered into a Professional Services Agreement with CFMG (Wellpath) effective January 1, 2019, “in order to provide health care services to inmates in custody of the Napa County Department of Corrections and wards housed in the Juvenile Justice Facility.” The Scope of Work required of Wellpath is detailed in Exhibits A and B of the Wellpath Agreement.

Exhibit A of the Wellpath Agreement contains 27 sections defining the services to be provided by Wellpath. The Jury lacked the time and resources to investigate all 27 sections and elected to concentrate on the below listed four sections which did not involve any patient specific medical information. The remaining 23 sections of the Scope of Work were not investigated by the Jury.

- Procedures Manual
- Quality Management Program
- Health Care Staff Procedures (Adult and Juvenile Facilities)
- Basic Training for Corrections Personnel (Adult & Juvenile Facilities)

Beginning with verbal requests for documentation from County employees appearing as witnesses before the Jury during the fall of 2019, virtually none of the items requested were provided. In February of 2020 the Jury requested in writing general documentation relating to the four areas identified above,³ and in March of 2020 the following specific documents were requested:⁴

- Policy and Procedures Manual with requisite declaration page indicating review/approval.
- Annual record of review and approval of all policies and procedures.
- Quarterly Medical Administrative Committee meeting minutes (4).
- Monthly health care staff meeting minutes (12).
- Records of quality improvement emergency drills
- Monthly statistical reports of health care services (12).
- Continuous Quality Improvement (CQI) Program details.
- CQI quarterly meeting minutes/summaries (4).
- Process and/or Outcome Quality Improvement Studies (minimum of one per year).
- Outcome Quality Improvement studies.
- Annual Calendar of Quality Improvement studies.
- Minimum thresholds for site-specific issues or problems to be studied
- Random sampling procedures for audits
- Annual review of effectiveness of the CQI program.
- Contractor and Corrections Department personnel training records.

The Jury experienced a significant delay in obtaining any of these documents, most of which were not obtained until May of 2020. The Jury acknowledges that NCDC was dealing with the Covid-19 pandemic when the written request was received.

It became apparent to the Jury that neither the NCDC nor NCPD held copies of the administrative documents which Wellpath was required to prepare under the terms of the Wellpath Agreement except for outdated Policy and Procedure Manuals. Because of the Jury’s requests to the County, on April 29, 2020, Wellpath provided the County a few of the documents (see Enclosure (1)). There is no indication that either NCDC or NCPD adequately monitored

³ Grand Jury letter Ser: 1920-064 dated February 24, 2020

⁴ Grand Jury letter Ser: 1920-066 dated March 12, 2020

Wellpath's performance in the preparation of required administrative documents. Since the Contractor's documents were not obtained by NCDC or NCPD for examination until April of 2020, the Jury questioned how these agencies could have confirmed that the goods or services had been received prior to that date as required by the Napa County Auditor-Controller's Office as a prerequisite for payment of invoices.

The following paragraphs detail some of the deficiencies identified by the Jury in course of its investigation. Please note that the Jury limited its documentation request to calendar year 2019.

Procedures Manual, Wellpath Agreement Exhibit "A" Items 1:

Section 1.1.a of Appendix "A" requires the development and maintenance of Procedures Manuals for both Adult and Juvenile facilities and invokes the requirements of BSCC Title 15. Section 1.1.c. of Exhibit "A" specifies:

Contractor shall review each policy, procedure, and program at least yearly with input from County staff and revise as necessary. The review process and any revisions should be presented at the first quarterly Quality Management Committee Meeting.

It was not until July of 2020 that NCDC and NCPD were able to produce documentation that the procedures had been reviewed and approved on June 3, 2019. The annual review for 2020 is overdue.

Quality Management Program/Health Service Audits (Adult and Juvenile Facilities), Wellpath Agreement Exhibit "A" item 3:

Section 3.a. of Appendix "A" requires the implementation of a comprehensive Quality Management Plan. Section 3.b. states the "Contractor shall assess the quality and adequacy of health and pharmaceutical services annually and provide an annual written report to the County. Section 3.c. requires a monthly statistical report on monthly activities. Section 4.d. specifies that the "Contractor shall hold quarterly Quality Management Committee Meetings consisting of Contractor and County staff..." Wellpath procedures require that meeting minutes be documented and disseminated to attendees.

The Jury anticipated that NCDC and NCPD would be able to provide 24 monthly statistical reports for calendar year 2019 (12 each from NCDC and NCPD). The required data is specified in Wellpath Procedure A04. Instead, the Jury received a single NCDC summary report for 2019.

Meeting minutes are documented, and attendees are permitted to see, but not retain, copies of the minutes. This policy is defended based on an undefined legal confidentiality. Witnesses confirmed that these minutes do not contain any patient specific personal or medical information. The Jury has not been provided with a definition of the "legal confidentiality" concerns.

Some additional Quality Management documentation requested by the Jury was defined by Wellpath as part of its Continuous Quality Control (CQI) program. Wellpath objected to providing documentation related to the CQI Program.

Documentation Withheld by Wellpath:

Term 21 of the Wellpath Agreement reads as follows:

COUNTY, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or duly authorized representatives of any of the above, shall have access to any books, documents, papers and records of Contractor which are directly pertinent to the subject matter of this Agreement for the purposes of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, CONTRACTOR shall maintain all required records for at least seven (7) years after COUNTY makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

Despite signing the Wellpath Agreement containing Term 21 above, in a letter to the Jury,⁵ Wellpath asserts:

“Since even employees of Napa County do not qualify as workforce members under the Patient Safety Act in certain instances, and the requested documentation is not shared with anyone outside of the Workforce, it would breach confidentiality of the Patient Safety Work Product to allow anyone other than Wellpath to receive or maintain copies of Work Product.”

If NCDC and NCPD knew that there was documentation which they would not be permitted to see, at the very least they should have required that Wellpath provide written certification that the documentation has been prepared. Unfortunately, having apparently never requested to see this contractually required data, neither NCDC nor NCPD were aware of its existence. Neither NCDC or NCPD are able to provide verifiable evidence that Wellpath has prepared and maintained documents required by Exhibit “A” Item 3.a. for those items which Wellpath has chosen to define as “Patient Safety activity work products” under the provisions of 42 U.S.C.A. 299b

Health Care Staff Procedures (Adult and Juvenile Facilities), Wellpath Agreement Exhibit “A” item 4:

Section 1.4.c. of Appendix “A” requires the following:

Procedures shall be in writing, and reviewed and updated at least annually. Each document will bear the date of the most recent review or revision and signatures of the reviewers. A declaration paragraph at the beginning of the manual will outline the fact that the entire manual has been reviewed and approved and followed by the proper signatures.

In July 2020 it was determined by the County that the Health Care Staff Procedures Manual described did not exist as a separate entity but had been combined with the Policy and Procedure Manual, as described above, by Wellpath. The Jury does not take exception to the fact that the two sets of procedures were combined into a single manual. However, once again the County was unaware of this combining of manuals until attempting to respond to the Jury’s

⁵ Wellpath letter addressed to the Napa County Grand Jury, Re: Confidentiality of Wellpath Documents, dated April 29, 2020

documentation request. The June 3, 2019, certification documents noted above also apply to the Health Care Staff Procedures and are therefore also overdue.

Basic Training for Correction Personnel (Adult and Juvenile Facilities), Wellpath Agreement Exhibit “A” Items 1.14:

Nine items were provided in response to the Jury’s request for Wellpath training documents specified in Section 1.14 of Appendix “A.” One document was a course outline prepared in 2018, the remaining eight documents were class attendance records. The course outline was prepared by the Department of Corrections, not Wellpath. No Wellpath course outlines were provided. Three of the attendance documents were dated in 2015, four in 2018, and one in 2020. None of the documents were dated in 2019. This training documentation submittal was wholly unresponsive to the Jury’s request. Neither NCDC nor NCPD provided verifiable evidence that any contractually required training was provided by Wellpath during calendar year 2019, nor any indication that the County had addressed this discrepancy.

Data Response Summary

The County’s response to the documentation requested is shown in Enclosure (1). As noted in Enclosure (1) the County simply noted that in many cases neither NCDC nor NCPD had any documents responsive to the Jury’s request (i.e., they had never been obtained from Wellpath). In response to the Jury’s request (but not as the result of an NCDC or NCPD administrative inquiry) Wellpath did ultimately provide an explanation as to why some of the documentation was not available.

For those items identified by “Note 2,” Table 2 of Enclosure (1), neither NCDC nor NCPD has provided verifiable evidence that the items have been prepared. For those items identified as “Provided” in Table 2, the documents came into the possession of the County for the first time on April 29, 2020,⁶ and only in response to the Jury’s request. Neither NCDC nor NCPD appear to have made an adequate effort to verify that Wellpath is complying with the administrative terms of the Wellpath Agreement.

Contractor Audit

As noted above, the Jury concentrated on only four of the twenty-seven sections of the Scope of Work defining the services to be provided by Wellpath (i.e., 15%). In each of the four areas, the Jury identified deficiencies in the documentation provided. Given the number and significance of the deficiencies identified in this small sampling, the Jury believes that the County should audit in detail Wellpath’s performance under the Wellpath Agreement. The citizens of Napa County who pay more than three million dollars/year for these services deserve assurance that they are receiving full value.

⁶ Napa County Office of County Counsel email, RE: Grand Jury Document Request, dated 5/11/2020

Documents Not Examined

The below listed documents are a subset of those provided to the County by Wellpath on April 27, 2020.

- CQI quarterly meeting minutes/summaries (4).
- Process and/or Outcome Quality Improvement Studies (minimum of one per year).
- Outcome Quality Improvement studies.
- Annual Calendar of Quality Improvement studies.

The Jury has not been afforded the ability to examine these documents for the reason noted below:

NCDC and Probation, working with Wellpath, their contracted medical services provider, have searched for and collected the documents responsive to each request to the extent such documents exist. During that process, Wellpath asserted some confidentiality and privilege objections to the Departments release of a subset of responsive document to the Grand Jury. The Department themselves do not object to providing you with all of the documents you have requested, but in light of these third-party objections, the Department will hold the documents that Wellpath asserts cannot be disclosed until the Grand Jury notifies the Department that Wellpath's objections have been resolved.

The Jury chose not to enter an undefined, third-party, confidentiality agreement with the County's contractor. These documents are held by the County. Neither NCDC nor NCPD have disputed the Jury's classification of these records as "public documents."

Wellpath Invoices

Submission of Wellpath Invoices

The Wellpath Agreement contains the following provision: "CONTRACTOR shall submit invoices *not more often than quarterly* [emphasis added] to the Director of Corrections for Napa County Department of Corrections and Chief Probation Officer for Juvenile Hall...." This requirement is prudent in that it reduces the administrative burden on the County for the handling of invoices and also is advantageous for taxpayers with respect to the time value of money (TVM).⁷ However, Wellpath submits invoices to the County monthly, the invoices are approved by the NCDC and NCPD monthly, and paid by the Auditor-Controller's Office monthly.

Section 4 of the Wellpath Agreement is entitled: Method of Payment. Although not explicitly stated, the Wellpath Agreement is apparently a "Fixed Price" contract (Section 3(a) Compensation). The Wellpath Agreement states:

If the Agreement provides for a fixed price, and CONTRACTOR presents interim invoices, CONTRACTOR must state the percentage of work completed, which must be verified by COUNTY, i.e., 35% design, 95% design, draft report, et cetera, at which time CONTRACTOR shall be paid the equivalent percentage of the fixed price.

⁷ The time value of money (TVM) is the concept that money you have now is worth more than the identical sum in the future due to its potential earning capacity.

The Jury was advised that this provision is not followed. Wellpath does not state the percentage of work completed. Neither NCDC nor NCPD verify that the goods and services have been provided.

Contractual Confirmation That Goods or Services Have Been Received

The Napa County Auditor-Controller's Office has a recommended Procedure entitled: Accounts Payable Procedures for Departments. Under the detailed procedures, the individual with approval authority is to "*Confirm that the goods or services have been received;*" [emphasis added]. The Jury was advised that in the case of the Wellpath Agreement, this confirmation was limited to verifying that the monthly amount invoiced by Wellpath was consistent with the County's budgeted amount. There was no evidence that any attempt was made to verify that the goods or services had been provided.

Exhibit A invokes the California Government Code Section 7550 requiring that "each document or report prepared by CONTRACTOR for or under the direction of COUNTY pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontractors under the Agreement relating to the preparation of the document or written report...." The Jury could find no evidence that this provision is enforced.

One Size Fits All

The Jury was disturbed by the County's failure to enforce various provisions of the Wellpath Agreement ranging from maintenance of records, to work product verification, to invoicing policies. One County employee offered a possible explanation for these apparent irregularities: "The County has one standard professional services agreement which is applied to a variety of contracting needs and not all the provisions specified in the agreement are applicable to every situation." Based on the Jury's investigation the "one size fits all" explanation appears highly probable, but unacceptable. For example, the Jury wonders why the County would sign a Professional Services Agreement with Wellpath containing the existing Term 21 (Access to Records) when both parties knew (or should have known) that there are documents which "are directly pertinent to the subject matter" of the agreement but which Wellpath does not permit County employees to view. Contract provisions that cannot (or will not) be enforced are worse than useless. The disbursement of public monies requires due diligence at all levels of administration.

FINDINGS

- F1. Neither NCDC nor NCPD provided verifiable documentation that the required annual Wellpath/County reviews and approvals of the Procedures Manual have been conducted after June 3, 2019, indicating inadequate monitoring of Wellpath's administrative performance.
- F2. Neither NCDC nor NCPD provided verifiable documentation that any contractually required training was provided by Wellpath during calendar year 2019 indicating inadequate monitoring of Wellpath's performance.
- F3. Neither NCDC nor NCPD are able to provide verifiable documentation that Wellpath has prepared and maintained documents required by Exhibit "A" Item 3.a. for those items which Wellpath has chosen to define as "Patient Safety activity work products" under the provision of 42 U.S.C.A. 299b, indicating inadequate monitoring of Wellpath's performance.
- F4. Neither NCDC nor NCPD provided verifiable evidence that the items annotated as "The Department does not have any documents responsive to this request." in Enclosure (1), Table 2, have been produced, indicating inadequate monitoring of Wellpath's performance.
- F5. The County has public documents within its custody which it is withholding from examination by the Jury based on objections from Wellpath.
- F6. The Jury identified a significant number of administrative deficiencies in a limited sampling of Wellpath's work indicating inadequate monitoring of Wellpath's performance.
- F7. Not all the Wellpath Agreement Terms or Appendix "A" Scope of Work Items are uniformly administered, indicating inadequate monitoring of Wellpath's performance.
- F8. The Napa County Department of Corrections and Napa County Probation Departments approve Wellpath invoices based solely on the basis that a submitted claim agrees with the budgeted amount, not by verification of work performed. The taxpayers of Napa County are billed more than 3 million dollars a year based on this limited information.
- F9. The Wellpath Agreement calls for quarterly submittal of invoices, but the County accepts monthly submittals adding to the cost of administering the Agreement.

THE GRAND JURY RECOMMENDS:

- R1. NCDC and NCPD require Wellpath to maintain the Procedures Manual in accordance with the provisions of the BSC Title 15 and the Wellpath Agreement. This action to be completed by December 31, 2020, and thereafter for the term of the Agreement.
- R2. NCDC and NCPD require Wellpath to provide training for Probation and Correctional Personnel in accordance with the provisions of the Wellpath Agreement. This action to be completed by December 31, 2020, and annually thereafter.
- R3. NCDC and NCPD require Wellpath to certify the preparation of "Patient Safety activity work products." This action to be completed by December 31, 2020, and annually thereafter.

- R4. NCDC and NCPD are to establish the existence of those items required by the Wellpath Agreement, but which are not held by the County, to be verified by June 30, 2021.
- R5. The Napa County Board of Supervisors institute a one-time audit of Wellpath's compliance with the Scope of Work contained in the Wellpath Agreement. This audit to be independent of the NCDC and NCPD, and to include a physician with contract administration experience. This audit to be completed no later than June 30, 2021.
- R6. The Napa County Auditor-Controller, the Departments of Corrections and Probation, County Counsel, and County Executive Officer are to review the provisions of the Wellpath Agreement, including Exhibits "A" and "B," and institute the appropriate Services Agreement amendments or modifications, as provided for in the Agreement, necessary to reflect the actual contract requirements. This action to be completed by December 31, 2020.
- R7. The Napa County Auditor-Controller, together with the Departments of Correction and Probation, is to establish clearly defined criteria for the confirmation that goods or services have been received from Wellpath. These criteria are to be put in place by December 31, 2020.
- R8. The County of Napa should not accept Wellpath invoices submitted more frequently than quarterly. This policy to be implemented by the second quarter of fiscal year 2020-2021.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the 2019-2020 Napa County Grand Jury requests responses from the following bodies to each of these Recommendations:

- R1-R6 The Napa County Board of Supervisors
- R1-R7 The Napa County Director of Corrections
- R1-R7 The Napa County Chief Probation Officer
- R6 County Executive Officer
- R6, R7, R8 Napa County Auditor-Controller

ENCLOSURE (1)

RESPONSES TO DATA REQUESTS

TABLE 1

County Council Response for NCPD dated 4/27/2020

1	Policy & Procedures manual	Provided
2	Annual Record of review and approval	Note 1
3	Quarterly Medical Administrative Committee meeting minutes (4)	Note 1
4	Monthly health care staff meeting minutes (12)	Note 1
5	Records of quality improvement drills	Note 1
6	Monthly statistical reports of health care services (12)	Note 1
7	Continuous Quality Improvement (CQI)	Note 1
8	program details	Note 1
9	CQI quarterly meeting minutes/summaries (4)	Note 1
10	Process and/or Outcome Quality Improvement Studies	Note 1
11	Outcome Quality Improvement studies	Note 1
12	Annual Calendar of Quality Improvement studies	Note 1
13	Minimum thresholds for site-specific issues or problems	Note 1
14	Random sampling procedures for audits	Note 1
15	Contractor and Corrections/Probation Department personnel training records	Provided
Note 1	After a search of documents in its care, custody in control, the Probation Department found no documents responsive to this request. The Department believes these documents to be in the care, custody and control of Wellpath.	

TABLE 2

County Council Joint Response for NCPD & NCDC dated 5/1/2020

1	Procedures Manual Documents, 1.1.a, 1.1.b, and 1.1.c	Provided
2	Quality Management Program/Health Service Audits, paragraphs 1.3.a., 1.3.b., 1.3.c., and 1.3.d.	Note 2
3	Health Care Staff Procedures, 1.4.c	No
4	Basic Training for Correction Personnel, 1.14.a. and 1.14.b.	Provided
5	Health Care Staff Qualification, Development and Training, 1.24.a	Note 2
6	Policy and Procedures Manual w/declaration page	Provided
7	Annual record review and approval of all policies and procedures	Note 2
8	Quarterly Medical Administrative Committee meeting minutes	Note 2
9	Monthly health care staff meeting minutes	Note 2
10	Records of quality improvement emergency drills	Note 2
11	Monthly statistical reports of health care services	Provided
12	Continuous Quality Improvement (CQI) Program Details	Note 2
13	CQI quarterly meeting minutes/summaries	Provided
14	Process and/or Outcome Quality Improvement Studies	Provided
15	Outcome Quality Improvement Studies	Provided
16	Annual Calendar of Quality Improvement studies	Provided
17	Minimum threshold for site-specific issues or problems to be studied	Note 2
18	Random sampling procedures for audits	Note 2
19	Annual review of effectiveness of the CQI program	Note 2
20		Provided
Note 2	The Department does not have any documents responsive to this request.	