

January 14, 2019

Ms. Nicole Lindler
Office of Mayor London N. Breed
City and County of San Francisco

Dear Ms. Lindler,

This letter contains comments from the Voluntary Services First Coalition on the Housing Conservatorship Report, created pursuant to the requirements of SB 1045. The Voluntary Services First Coalition is made up of community groups who work with people with disabilities, seniors, and homeless people, and who support voluntary services and oppose the implementation of SB 1045. The coalition has serious concerns about this report and whether it adequately demonstrates that the city is able to fulfill the requirements of the law.

- I. *Placements:* Throughout the report, the City suggests that most people under Housing Conservatorships will be placed in permanent supported housing (“Housing Conservatorship requires the provision of Permanent Supportive Housing” p.1). Currently, however, most people under LPS conservatorship are placed in locked facilities or non-independent housing (like Board and Care homes and Skilled Nursing Facilities). Moreover, the law states that “the placement shall be in supportive community housing that provides wraparound services, such as onsite physical and behavioral health services, *unless the court, with good cause, determines that such a placement is not sufficient for the protection of that person*” (Art. 5453). How many of the 103 individuals identified by the city in the draft report as being potentially eligible are likely to be placed in facilities other than “supportive community housing,” how many will be placed out of county, and how have available places been identified? According to UC Berkeley researchers, the use of conservatorship has fallen two-thirds since 1990, as a result of a lack of availability of housing placements. In addition, given the high failure rate in the existing permanent supportive housing (the draft report says that more than 10% of PSH units turn over each year), are appropriate services and support actually provided, or will they be to those who are conserved?

- II. *Legal Protections:* The report states that there will be “several levels of safeguards” for the protection of the civil liberties of people potentially placed under a housing conservatorship, particularly “due process rights” (p.5) like the “right to a public defender and a jury trial” (p.13). Yet the report makes no mention of additional resources for the Public Defender’s office, nor even that the office was consulted in the preparation of this report. It does not appear that the efficacy of current legal representation for people under AoT / traditional LPS conservatorship has been assessed in determining whether these same guarantees will provide adequate protections to people under housing conservatorship. What specific actions will the city take to ensure that legal guarantees in the law are respected? What additional

trainings will be offered to Public Defenders, judges, and the City Attorney's office for addressing the particular needs of these individuals?

- III. *Defining Eligibility:* The city notes that it has identified 55 individuals currently meeting that 8 5150 threshold and 48 who may meet that threshold in the future. It also identifies those individuals as people who "frequently receive crisis-level intervention" (p.6). However, the report makes no mention of the other requirements of the law. How will the criterion of "incapable of caring for the person's own health and well-being due to a serious mental illness and substance use disorder" be defined, and how many of the 103 will meet that requirement? Page 1 of the report states that this program is for people with "serious mental illness and substance use disorder" but fails to define "serious." It then continues to say eligible individuals have been found to be "ineligible for other kinds of conservatorship" but fails to say why other kinds of conservatorship have not worked for this population.

The draft report states that permanent supportive housing will be provided to conserved individuals "who can self-care." This criteria is illogical, as someone will be conserved if they are incapable of self-care but then will only be placed in PSH if they can self-care. In addition, we object to this criteria for housing. People should live in PSH if they are qualified to do so -- if they can live there with supports and without posing a direct threat to others.

In addition, the numbers quoted by the City as potentially eligible individuals has changed repeatedly, raising concern that these numbers may continue to change, especially when influenced by the systems at play.

- IV. *Least Restrictive Alternative:* The report states that the 103 individuals "receive crisis-level interventions several times a year" and "as a result, this population is already able to access most of the services required by SB 1045 outside the context of Housing Conservatorship." This is vague and misses the key issue. How many of the 103 individuals have been offered permanent supportive housing with wrap-around services, and refused those services? If the Department of Homeless Services is "prepared to provide" such housing, why has it not already been offered outside of the context of a conservatorship?
- A. The city also references the creation of "Engagement Specialists" (p.5) in Fiscal Year 17/18. How long have these specialists been operating, and how many of the 103 individuals have received these engagement services?
- V. *Voluntary Services:* The report states that Housing Conservatorship "will not result in reduction or redistribution of services overall" even as it states that people under Housing Conservatorship would be "prioritize [d] into care" (p.6). This is inconsistent. How many people on wait lists for Intensive Case Management services or Permanent Supportive Housing would be 'jumped' as a result of this new prioritization? Given the huge numbers of people who are homeless and cannot get into permanent supportive housing, it must be

acknowledged that for every conserved person moved to the top of the list, someone else will not be housed.

The plan fails to address the City's failure to provide adequate voluntary services, including intensive case management, program integration, mental health and substance use treatment, housing, and housing support. How will these problems be fixed to prevent the pipeline to 8 5150s and subsequent conservatorship? For each of the services described in the draft report, how many people are currently receiving services? Some of these programs are at capacity so how will capacity be increased to meet the needs of eligible individuals without depriving others?

The report repeatedly claims that needed services are already being provided, but without the umbrella of conservatorship. But the report fails to note that eligible individuals have not been offered a package of voluntary services, including step-down beds from residential treatment and permanent supportive housing, which must be offered at the time it is needed. A complete implementation plan must include details on how many of the 103 identified individuals have been offered specific services, including housing and intensive case management.

- VI. *Consultation*: We strongly disagree that the report was “developed in consultation with the parties required by SB1045” (p.2). The “working group” referenced in the report met twice. Presentations filled most of the time, with some questions and comments afterwards, but no real dialogue. There was no indication of how input from those meetings would be incorporated into the report and we have not seen concerns incorporated into the report. How will the City set up an authentic consultation process to ensure adequate participation in the implementation and evaluation of the law?
- VII. *“Black Robe Effect”*: The report states that the “black robe effect”--that is, the “symbolic weight of the court”--will be used to “leverage an individual into care” (p.2). This reference is incoherent. The justification for Laura’s Law / AoT has always been that the “black robe effect” will gain compliance without the need for institutionalization, even though the most recent research shows that the positive impacts of AoT are tied to the provisioning of intensive services, not legal constraint.¹ Since the law requires that people have been refused from or failed out of AoT prior to going on Housing Conservatorship, why does the city think that the “black robe effect” will have a greater effect if the hearing is for “conservatorship” rather than “Laura’s Law”? Plus, the “black robe effect” is inconclusive, with the effect likely being the result of systems providing additional services -- which could be provided in a voluntary system, not conservatorship.

¹ Schneeberger, Andres R., Christian G. Huber, Undine E. Lang, Kristina H. Muenzenmaier, Dorothy Castille, Matthias Jaeger, Azizi Seixas, Julia Sowislo, and Bruce G. Link. 2017. “Effects of Assisted Outpatient Treatment and Health Care Services on Psychotic Symptoms.” *Social Science & Medicine* 175:152–60.

- VIII. *Role of the Department of Aging and Adult Services:* The report states that, for purposes of implementation by the Office of the Public Conservator, “current staffing levels will be sufficient” (p.4). Yet the Housing Conservatorship program, if implemented for the 55-103 individuals identified by the city, would result in a 10-20% increase in the caseload of the office. How would this expansion of caseload impact the services given to individuals already on traditional LPS conservators? In addition, if the city is already offering a full suite of services to the 55-103 individuals identified, what additional value will the Public Conservator provide? Are permanent supportive housing and full wrap-around support services already being provided? Which other powers of conservators (such as involuntary medication) does the office plan to use? If none, why not provide these services without conservatorship?
- IX. *Other Needs of the Housing Conservatorship Population:* The report should indicate that, in addition to considering, “cultural, linguistic, gender, sexual orientation, gender identify [sic], age, and special needs of minorities,” it will consider other forms of disability, not limited to physical or psychiatric ones (p.11). The report should also indicate the overall demographic profiles of the 103 individuals, and indicate which culturally- and socially-responsive services have places available for them.

The report refers to a program manager and new regulations. These must be included in an implementation plan before it can be considered to meet legal requirements.

The report concludes that it “demonstrates that the City currently has the capacity to administer the program effectively” and that Housing Conservatorship will address individuals “for whom stabilization has been unsuccessful” (p.14). Without addressing the above questions, it does neither.

We are open to an authentic consultation process with the City in which the above questions and concerns can be addressed. To discuss further, please contact Jessica Lehman at Senior and Disability Action, jessica@sdaction.org or (415) 546-1333.

Thank you.

The Voluntary Services First Coalition

California Alliance of Disability Advocates
Coalition on Homelessness
Critical Resistance
Democratic Socialists of America—Justice Committee
Disability Rights California
Disability Rights Program, ACLU
Do No Harm Coalition

Gay Shame
Gray Panthers
Haight Ashbury Neighborhood Council
Harm Reduction Coalition
HealthRIGHT 360
Hospitality House
Independent Living Resource Center SF
Indivisible SF
LAGAI Queer Insurrection
Mental Health Association of San Francisco
No New Jail Coalition
Pacifica Social Justice
Public-Health-Justice
Senior and Disability Action
SURJ SF
TGI Justice Project
Western Regional Advocacy Project