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Oregon jail health care provider destroyed evidence and tried to cover it up, judge finds

By **Conrad Wilson** (OPB)

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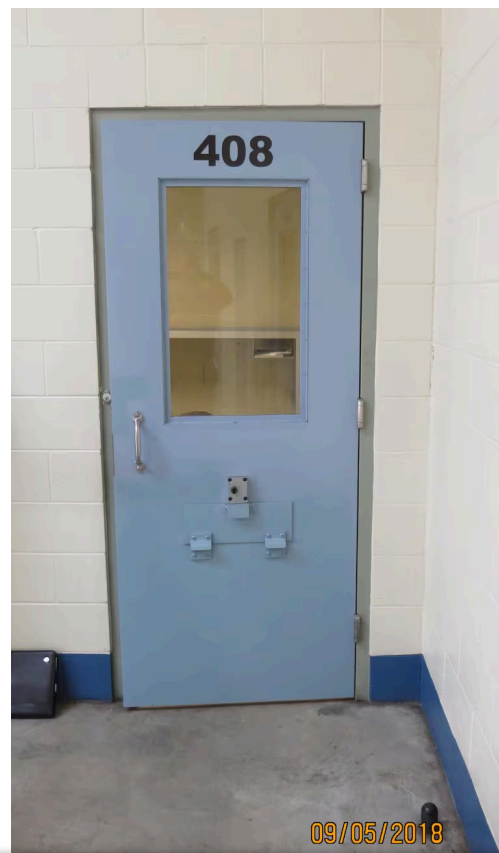
For a third time a federal judge has ruled that Wellpath — one of the nation's largest for-profit providers of health care to people in prisons and jails — wrongfully deleted emails connected to in-custody deaths

A federal judge ruled Monday against the correctional health care giant Wellpath after company leaders “intentionally destroyed email evidence in order to prevent its use at trial.”

The ruling stems from the case of a woman who died in 2018 at the Josephine County Jail in southern Oregon. Wellpath destroyed emails surrounding her death through its implementation of a company-wide policy known as the “purge.”

It's the third time a federal judge has found Wellpath — one of the nation's largest for-profit providers of medical and mental health care to people in prisons and jails — destroyed evidence relevant to wrongful death cases where the company was being sued.

After the company deleted emails, it then spent years making misleading statements that intentionally omitted why it was unable to turn over emails, according to three separate rulings from federal judges in two states.

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The rulings have cost Wellpath millions of dollars. The company did not return multiple requests for comment.

Janelle Butterfield was found dead in cell 408, at the Josephine County Jail, on Sept. 5, 2018. She had been in jail for 40 days.

Courtesy of Oregon State Police

Josephine County

Janelle Marie Butterfield, 34, had a history of mental illness before she landed in Wellpath's care. She had been in and out of the Josephine County Jail in the years before her death. During one stint, Butterfield's family alerted the jail she had been diagnosed with paranoid schizophrenia.

Then, on July 27, 2018, Butterfield was arrested and booked into the county jail for the last time after she failed to appear on misdemeanor charges.

She died by suicide 40 days later, alone in a segregation cell.

"During her 40 days in custody, Ms. Butterfield did not see a doctor, a nurse practitioner, a physician assistant, or a nurse employed by the medical and mental health providers," a [lawsuit filed in April 2020 by her family states](#). "Her antipsychotic medication was discontinued without explanation after 16 days in custody."



In their lawsuit, the family alleged Wellpath and Josephine County acted with negligence and violated Butterfield's constitutional rights. The U.S. Constitution requires correctional facilities to provide "adequate healthcare," though [OPB's reporting found jails across the Pacific Northwest](#) too often fall short of meeting that standard.

Related: [Booked And Buried: Northwest Jails' Mounting Death Toll](#)

U.S. Magistrate Judge Mark Clarke issued findings earlier this year that Wellpath intentionally destroyed

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Janelle Butterfield is pictured in an undated photo. In June 2011, Butterfield's condition deteriorated as she had flashes of delusion and paranoia.

Courtesy of Connie Dence

District Court Judge Michael McShane officially signed off on those findings and recommendations this week.

According to a status report filed in August, Butterfield's mother "has reached an agreement in principle to resolve her claims against" Wellpath.

This latest order comes as Wellpath is [on weak financial footing](#), which financial experts say might force the company to restructure.

The 'purge'

Early in 2019, Wellpath — which operates in at least 10 correctional facilities in Oregon and Washington — adopted a new policy to permanently delete messages after one year, unless they were identified as evidence in a legal case and supposed to be preserved, Judge Clarke noted in his findings. But as would eventually become clear, Wellpath didn't.

The policy was "conceived and approved" by some Wellpath executives, Clarke wrote. "Its architects referred to the policy internally as the 'purge.'"

The change followed three recent deaths in Washington and Oregon county jails where Wellpath was responsible for providing medical care to those in custody.

"Wellpath's Chief Information Officer agreed during his deposition that one of the motivating factors behind the decision to adopt the Policy was to destroy bad emails that could be produced in discovery," Clarke wrote.

Related: [Suicide Is The Leading Cause Of Death In Oregon And Washington Jails](#)

Attorneys for Butterfield's family notified Wellpath on March 19, 2019, with a fax to "preserve all evidence and information related to Ms. Butterfield," — a standard part of any criminal or civil case where parties exchange evidence. Wellpath officials said they couldn't confirm if they received the fax, according to Clarke, though attorneys for Butterfield's family produced a receipt showing the fax went through.



The Josephine County Jail in Grants Pass, Ore., is pictured in an undated photo.

Dave Blanchard / OPB

The company went forward with the first round of an email purge that was completed by May 2019.

Four months after their initial fax, attorneys for Butterfield's family notified Wellpath again to inform them of their intent to sue. Two weeks later, the company opened a claim, a signal they were anticipating the lawsuit.

Despite that, Clarke noted the company still didn't turn over any remaining emails, and continued to destroy evidence.

Other deaths and cases

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On March 11, 2016, Marc Moreno, 18, died after eight days in the Benton County Jail from cardiac arrhythmia and dehydration. He lost 38 pounds while in custody and under the care of the county's contracted medical provider, Correct Care Solutions, which two years later changed its name to Wellpath.

On Oct. 30, 2018, Moreno's parents filed a lawsuit, followed by requests for discovery to Wellpath.

After more than a year and multiple requests, Wellpath acknowledged it "purged the e-mail accounts of all former employees, including almost all of the employees who worked at the Benton County Jail during the time relevant to this lawsuit," according to court records. Wellpath also deleted all emails older than one year from accounts of current employees.

"This is not a case where Defendants negligently forgot to stop an automatic document destruction system already in place," U.S. District Court Judge Rosanna Malouf Peterson wrote in a June 1, 2020 order that would mark the first in the series of rulings against Wellpath. "Rather, this is a case in which [Wellpath] decided to begin a new document destruction policy in the middle of litigation over a teenager's death."

Related: [Booked And Buried: Northwest Jails' Mounting Death Toll](#)

Wellpath [settled with the family for \\$4.5 million](#), and halted its policy of deleting emails. But that practice had already impacted other cases in Oregon.

On Dec. 3, 2017, just hours after he was booked into the Coos County Jail, Rocky Stewart was found dead in his cell after complaining of nausea and anxiety. A Wellpath nurse was on duty when Stewart, 42, was booked into the facility but they failed to do a required medical screening. According to an autopsy, Stewart died from severe atherosclerotic coronary artery disease — a hardening of his arteries — which needed to be treated at a hospital.

Before they filed a lawsuit, attorneys for Stewart's family sent a request to Wellpath in March 2018 for the company to preserve documents, which the company received. For years, attorneys representing Stewart's family attempted to get emails from Wellpath but the company did not turn them over, claiming the search parameters were cost prohibitive and overly broad.

After years of delays, it appears U.S. District Court Judge Ann Aiken had his hand in it.

“I am not happy,” Aiken said at a July 29, 2022 hearing. “Wellpath has been standing in the way in terms of not being responsive in the basics. It’s federal court. You provide the discovery. You preserve the discovery when you’re on notice. You preserve it with your clients. You provide it.”

In June 2023, Aiken also ruled against Wellpath, finding the company’s conduct was intentional and deceptive.



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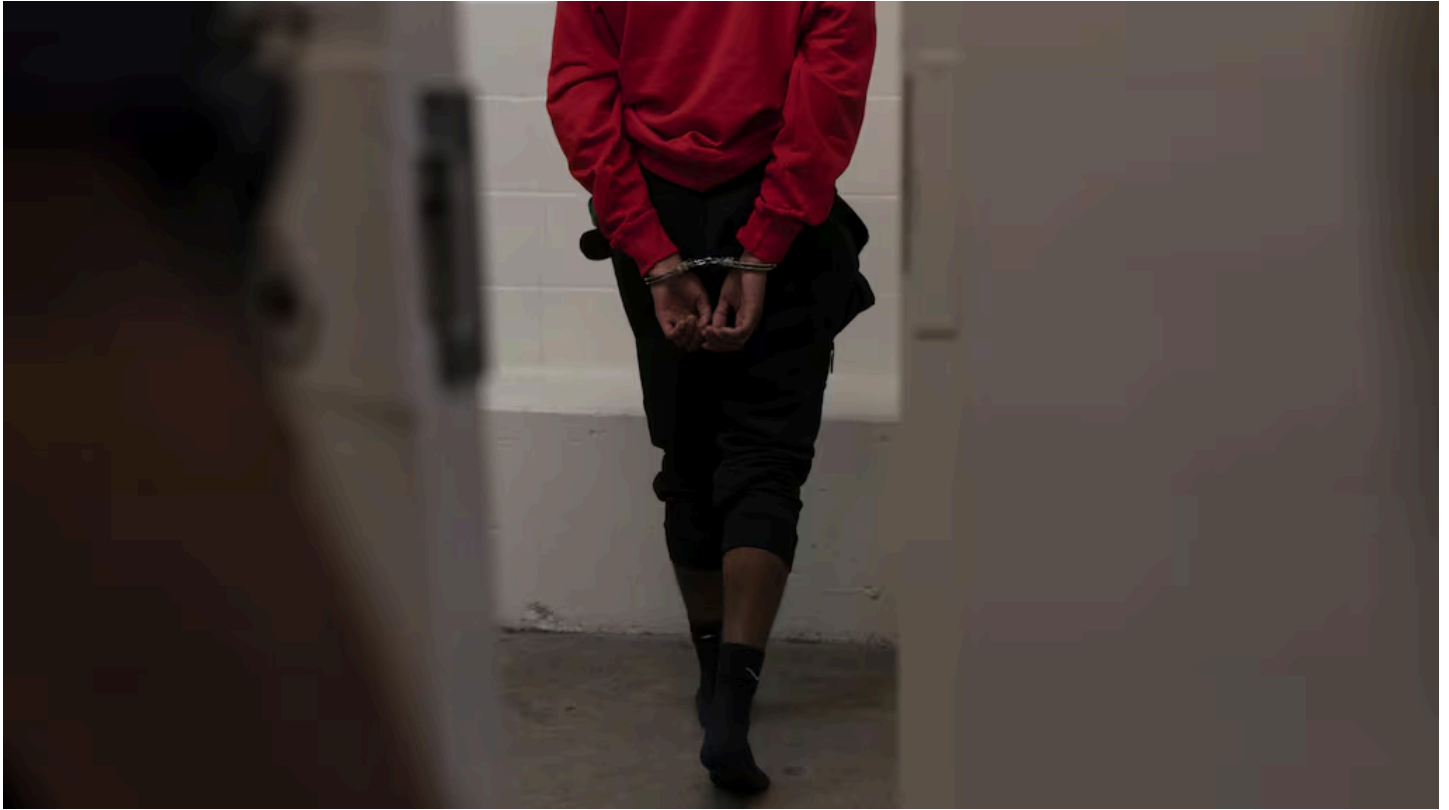


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Washington Jails

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April 4, 2019



Booked And Buried: Northwest Jails' Mounting Death Toll

Incomplete data tracking hides a crisis of rising death rates in overburdened Northwest jails that have been set up to fail the inmates they are tasked with keeping safe.

April 2, 2019

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