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INFORMATIONAL LETTER # 21

TO: Interested Parties

FROM: The Office of Patients' Rights

RE: Provisions of Mental Health Treatment to Jail Inmates

DATE: January 20, 2005

When addressing mental health care and treatment provisions and practices for inmates held in county jails, one must apply at a minimum; both the Penal Code-section 4011 and California Code of Regulation- Title 15.

This informational letter will address the mental health rights afforded to county jail inmates who are transferredⁱ from the county jail to a designated mental health treatment facility for treatment and evaluation.

Beginning with the California Code of Regulations; Title 15, Division 1, Chapter 1, Article 10 –Medical /Mental Health Services;

Section 1209 (a). Mental Health Services and Transfer to Treatment Facility;

“The health authority, in cooperation with the mental health director and the facility administrator, shall establish policies and procedures to provide mental health services. These services shall include but not be limited to the following:

- 1. Screening for mental health problems,*
- 2. Crisis intervention and management of acute psychiatric episodes,*
- 3. Stabilization and treatment of mental disorders, and*
- 4. Medication support services.”*

Section 1209 (b). Mental Health Services and Transfer to Treatment Facility, continues by addressing purpose of the Inmate's transfer:

“a mentally disordered inmate who appears to be a danger to himself or others, or to be gravely disabled, shall be transferred for further evaluation to a designated Lanterman Petris Short treatment facility designated by the county and approved by the State Department of Mental Health for diagnosis and treatment of such apparent mental disorder pursuant to PC section 4011.6 or 4011.8 unless the jail contains a designated treatment facility.”

Penal Code 4011.6.

“In any case in which it appears to the person in charge of a county jail, city jail, or juvenile detention facility, or to any judge of a court in the county in which the jail or juvenile detention facility is located, that a person in custody in that jail or juvenile detention facility may be mentally disordered, he or she may cause the prisoner to be taken to a facility for 72-hour treatment and evaluation pursuant to Section 5150 of the Welfare and Institutions Code and he or she shall inform the facility in writing, which shall be confidential, of the reasons that the person is being taken to the facility.

The local mental health director or his or her designee may examine the prisoner prior to transfer to a facility for treatment and evaluation. Upon transfer to a facility, Article 1 (commencing with Section 5150), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260), Article 5 (commencing with Section 5275), Article 6 (commencing with Section 5300), and Article 7 (commencing with Section 5325) of Chapter 2 and Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code shall apply to the prisoner.”

The above section acknowledges the existence of, and right to, the following;

- ◆ Section 5150; Detention of Mentally Disordered Persons for Evaluation and Treatment,
- ◆ Section 5250; Certification for Intensive Treatment,
- ◆ Section 5260; Additional Intensive Treatment of Suicidal Persons,
- ◆ Section 5275; Judicial Review,
- ◆ Section 5300; Post-certification Procedures for Imminently Dangerous Persons,
- ◆ Section 5350; Conservatorship for Gravely Disabled Persons
- ◆ Section 5325; Legal and Civil Rights of Persons Involuntarily Detained,

Included in the applicable rights is the ability to convert from involuntary to voluntary inpatient status without obtaining the consent of the court, the person in charge of the jail or juvenile detention facility, or the local mental health director.

An inmate, who is not receiving mental health services but desires them, may submit an application for such services:

Penal Code § 4011.8.

“A person in custody who has been charged with or convicted of a criminal offense may make voluntary application for inpatient or outpatient mental health services in accordance with Section 5003 of the Welfare and Institutions Code. If such services require absence from the jail premises, consent from the person in charge of the jail or from any judge of a court in the county in which the jail is located, and from the director of the county mental health program in which services are to be rendered, shall be obtained. The local mental health director or his designee may examine the prisoner prior to the transfer from the jail.”

“Where the court approves voluntary treatment for a jail inmate for whom criminal proceedings are pending, the court shall forthwith notify counsel for the prisoner and the prosecuting attorney about such approval. Where the person in charge of the jail approves voluntary treatment for a prisoner for whom criminal proceedings are pending, the person in charge of the jail shall immediately notify each court within the county where the prisoner has a pending proceeding about such approval; upon notification by the jailer the court shall forthwith notify the prosecuting attorney and counsel for the prisoner in the criminal proceedings about such transfer.”

County Advocates should consult with legal counsel designated by the county to represent and/or advise the advocates (often referred to as the County Counsel).

¹ For a complete overview of mental health services in county jails, go to: <http://www.pai-ca.org/Pubs/518101.htm>