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Voices of California's Civil Detainees at Coalinga State Hospital

Inside this issue:

IT IS THE END OF THE WORLD AS **YOU** KNOW IT!!!

(The View From The Editor's Seat)

By William Hester

RESIDENTS AT COALINGA STATE HOSPITAL ARE PEACEFULLY STANDING UP FOR THEIR RIGHTS!!! WITH OR WITHOUT ASSISTANCE FROM THE STREETS, RESIDENTS HAVE DECIDED TO FILE AGAINST DMH AND CSH WITH LICENSING AND THE COURTS AND TO PROTEST PEACEFULLY TO GAIN THE RIGHTS GIVEN TO THEM BY THE CONSTITUTION!!! ACCORDING TO LEGAL AND CIVIL STANDARDS, WE ARE TO BE CONSIDERED SICK PERSONS IN NEED OF TREATMENT – NOT PUNISHMENT!!!

This article covers the efforts being made by the residents of Coalinga State Hospital to try and find a peaceful resolution to a situation forced upon us!!! Welcome aboard for another run. There is an awful lot going on so let's get down to business.

The residents here at Coalinga State Hospital are finally fed up with being treated like prisoners. There is enough case law on the civil rights of involuntarily committed civilly detained individuals to fell and entire forest printing it and yet the Department of Mental Health has found (and continues to find) every possible reason to ignore the rights of those committed to its care in favor of a prison mentality.

It is time to look at things from a historical perspective. This country was founded by individuals that were fighting against English neglect, taxation, and abuse. In one of his many wise statements, Benjamin Franklin once said that, *"A little neglect may breed mischief…for want of a nail, the shoe was lost; for want of a shoe the horse was lost; and for want of a horse the rider was lost."*

The men that founded this nation risked life and limb to create a nation that would allow all people to have life, liberty, and be able to pursue happiness. In the original draft of the Declaration of Independence, Thomas Jefferson proclaimed, *"We hold these truths to be sacred and undeniable; that all men are created equal and independent, that from that equal creation they derive rights inherent and inalienable, among which are the preservation of life, and liberty, and the pursuit of happiness."*

The issues here at the hospital are basically very simple, but ones which the administration, the various unions, and the Department of Mental Health make very complicated.

The men who are sent to this facility are most likely going to die here and are being forced into conditions that no person could look at honestly and consider reasonable. There is little to no support for sex offenders on the streets. While this can be understood from an emotional standpoint, it becomes an issue of **society taking responsibility** for the people it chooses to lock up for any reason.

The laws in this nation have established minimum standards for the treatment of prisoners and civilly detained individuals. The standards set forth in the Wyatt v. Stickney **(344 F.Supp. 373)** case established minimum constitutional standards for the care of individuals who are involuntarily civilly detained. The following are some of the rights given under Wyatt v. Stickney:

II. Humane Psychological and Physical Environment

1. Patients have a right to privacy and dignity.
2. Patients have a right to the least restrictive conditions necessary to achieve

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the purposes of commitment.
5. Patients shall have an unrestricted right to send sealed mail. Patients shall have an unrestricted right to receive sealed mail from their attorneys, private physicians, and other mental health professionals, from courts, and government officials. Patients shall have a right to receive sealed mail from others, except to the extent that the Qualified Mental Health Professional responsible for formulation of a particular treatment plan writes an order imposing special restrictions on receipt of sealed mail. The written order must be renewed after each periodic review of the treatment plan if any restrictions are to be continued.
10. Patients have a right to receive prompt and adequate medical treatment for any physical ailments.
11. Patients have a right to wear their own clothes and to keep and use their own personal possessions except insofar as such clothes or personal possessions may be determined by a Qualified Mental Health Professional to be dangerous or otherwise inappropriate to the treatment regimen.
12. The hospital has an obligation to supply an adequate allowance of clothing to any patients who do not have suitable clothing of their own. Patients shall have the opportunity to select from various types of neat, clean, and seasonable clothing. Such clothing shall be considered the patient's throughout his stay in the hospital.
13. The hospital shall make provision for the laundering of patient clothing.
14. Patients have a right to regular physical exercise several times a week. Moreover, it shall be the duty of the hospital to provide facilities and equipment for such exercise.
17. The institution shall provide, with adequate supervision, suitable opportunities for the patient's interaction with members of the opposite sex.
18. The following rules shall govern patient labor:

A. *Hospital Maintenance No patient shall be required to* perform labor which involves the operation and maintenance of the hospital or for which the hospital is under contract with an outside organization. Privileges or release from the hospital shall not be conditioned upon the performance of labor covered by this provision. Patients may voluntarily engage in such labor if the labor is compensated in accordance with the minimum wage laws of the Fair Labor Standards Act, 29 U.S.C. § 206 as amended, 1966.

D. Payment to patients pursuant to these paragraphs shall not be applied to the costs of hospitalization.
19. Physical Facilities A patient has a right to a humane psychological and physical environment within the hospital facilities. These facilities shall be designed to afford patients with comfort and safety, promote dignity, and ensure privacy. The facilities shall be designed to make a positive contribution to the efficient attainment of the treatment goals of the hospital.

D. Day Room

The minimum day room area shall be 40 square feet per patient. Day rooms will be attractive and adequately furnished with reading lamps, tables, chairs, television and other recreational facilities.

E. Dining Facilities

The minimum dining room area shall be ten square feet per patient. The dining room shall be separate from the kitchen and will be furnished with comfortable chairs and tables with hard, washable surfaces.
20. Nutritional Standards
The diet for patients will provide at a minimum the Recommended Daily Dietary Allowances as developed by the National Academy of Sciences. **Menus shall be satisfying and nutritionally adequate to provide the Recommended Daily Dietary Allowances.** Provisions shall be made for special therapeutic diets and for substitutes at the request of the patient, or his guardian or next of kin, in accordance with the religious requirements of any patient's faith. Denial of a nutritionally adequate diet shall not be used as punishment.

I would like to make it clear that I deleted a lot of non-relevant information from the above citations. The full text of the Wyatt v. Stickney case contains a lot more information than I could reasonably print here.

BACK TO WHAT IS GOING ON NOW BECAUSE OF THE MANY FAILURES IN THE ABOVE AREAS...

In order to gain some measure of privacy, residents have been putting up sheets to cover the four foot gap between the wall and the end of the “privacy curtains” that currently exist. Many also cover the upper mesh sections to stop the overly bright nightlight from keeping them up all night.

In an attempt to reclaim their excessive control over residents, staff began tearing through units and taking down all items used by individuals to bring their level of privacy up to the constitutional minimum. Citing fire codes, hospital rules and all sorts of unheard of program restrictions, staff confronted the population with the demand to remove their add-ons or have them removed for them.

The results of this grand decision from above:

UNIT 8: There has been an ongoing demonstration of civil disobedience involving residents disrupting unit operations, forcing staff to clean up messes everywhere, and other general disruptions.
UNIT 1: In many ways, this unit has followed in the footsteps of Unit 8 and made working very uncomfortable for staff.
UNIT 4: This unit is currently on a PDR Strike. In addition to not eating at the PDR, residents here have restricted communications with unit staff and are taking care of each others needs.
HOSPITAL WIDE: There are many individuals who have come together to pay visits to various units to show them support on the days when staff actions are taken against them. Large numbers of individuals go onto the unit to re-

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assure the individuals there that they are not alone or forgotten.

There has also been a great deal of support given to Unit 4, in the form of food donations, that has given them the strength to continue.

In conclusion, while we have not been able to unify into one solid force to stand up for our rights, we are making some progress. The administration has formed a "Curtain Committee" to look into improving the privacy curtains. While this will obviously not get us what we want (they included union reps, program directors, etc.), it is a step in the right direction.

If we are going to have any chance of making lasting changes to the hospital and get the rights we deserve as United States citizens, we must continue to stand up for ourselves.

NOTE: I do not, and will not, approve of or endorse the use of violence to achieve our goals. There is plenty of evidence that civil disobedience can be effective in a non-violent manner to force change. We have got to show everyone that we are not the VIOLENT, UNCONTROLLABLE MONSTERS that everyone claims we are.

If you want to have a better main yard, better food, privacy, personal clothing, unopened mail, and all the other things we have been fighting for through the years here, then stop talking and working with them. Let CDAC be your voice – that's what you elected them for. Make the administration come to you to find out what is wrong. Don't pass the information out to all these staff that can't and won't make a difference.

STAND UP FOR WHAT YOU BELIEVE IN AND WHAT YOU DESERVE!!!

The residents of Coalinga State Hospital have served their time and have been indefinitely detained because they might be dangerous.

Civil detention is not supposed to be about punishing people.

Even the courts say that we are to be considered "sick persons in need of treatment" and therefore we are not here to be punished as we were when we were in prison.

If you are reading this and are a person who is honest with themselves and live a life based on integrity, then I hope that you will take the time to investigate my claims on behalf of the civil detainees here at the hospital.

We have been punished and paid our debt to society. If you feel that it is still necessary for us to be locked up for you to feel safe, fair enough.

BUT, if you are willing to lock us up to make you feel safe, then take responsibility for your actions and insure that we are being held in the least restrictive environment possible to keep us detained.

WHAT DO YOU BELIEVE IS RIGHT?

MENTAL HEALTH AMERICA

Home> About Us> What We Believe> Position Statements >Position Statement 55: Confining Sexual Predators in the Mental Health System

Position Statement 55: Confining Sexual Predators in the Mental Health System

Policy

At least seventeen states have passed various versions of what has come to be called "sexual predator" legislation. These laws provide for indefinite involuntary commitment of sex offenders to mental health treatment facilities after they complete prison terms for serious sex offenses. The impetus for this legislation was the repeal of the indeterminate sentencing laws under which serious sex offenders previously were confined in prison until prison officials were satisfied that they were no longer dangerous and the highly publicized accounts of a number of people who, upon release from prison for sex crimes, committed additional heinous crimes, in some cases against children. The United States Supreme Court narrowly approved sexual predator laws in a 1997 decision, Kansas v. Hendricks, 521 U.S. 346 (1997).

Mental Health America (MHA) believes that these laws do not constitute sound public policy. They focus on punishment rather than treatment, deal with people who often do not have a treatable mental illness, increase stigma, distort civil commitment, risk the safety of other persons in mental health facilities, divert resources from mental health care and inappropriately burden the mental health system with a criminal justice function for which it is not funded or equipped.

Background: Mental Health America Concerns

Sexual crimes, especially against children, are an unspeakable tragedy and among the most horrible forms of violence imaginable. Among the many interests to be served in this complex situation, the protection of children and the prevention of violence are the most important goals. In the case of sexual predators who prove themselves not to be amenable to treatment and who remain a threat to the community, continued separation from society in the interest of public safety is necessary. However, involuntary commitment of sex offenders to mental health treatment facilities after they complete prison terms for serious sex offenses is an inappropriate response to this problem.

1. **The Mental Health System is for Treatment, not Punishment**. The mental health system is not the appropriate place for long-term confinement of sexual predators. Sexual predator statutes usually state that the continued

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confinement of sex offenders in mental health systems is for the safety of the public, not the treatment of the offender. The dissent in the Hendricks case agreed with the Kansas Supreme Court that the purpose of the Kansas statute was punishment. While public safety is an appropriate societal goal, the purpose of the mental health system is treatment. Sexual predator laws disrupt the state's ability to provide treatment to people who need it and can benefit from it and undermine the mission and the integrity of the mental health system. If the societal goal of sexual predator laws is incapacitation and incarceration of potentially dangerous offenders, the criminal justice system is the appropriate place to pursue that goal. If current criminal justice statutes do not allow for sufficient periods of incarceration because of the widespread repeal of indeterminate sentencing laws, then those statutes should be changed.

2. **Sex Offenders Often Do Not Have a Treatable Mental Illness.** Many sexual predator statutes refer generically to sex offenders as having a mental illness. In fact, many sex offenders do not have a mental illness that can be treated under our current understanding and available evidence. Rather, the sex offenses under which sexual predators are convicted are a manifestation of what the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-IV) refers to as "Antisocial Personality Disorder," that is not amenable to currently available treatments.1 Thus, mental health professionals have difficulty determining which sex offenders are likely to be dangerous if not committed and what if any treatment should be provided. This means that courts, which must rely on professional expertise, will regularly make mistakes in deciding who should be committed or released, with serious consequences for both the public and the offender.

3. **Sexual Predator Legislation Increases Stigma**. Linking mental illness with sexually predatory behavior in the public consciousness and in sexual predator statutes fuels the stigma attached to mental illness and to treatment in the mental health system. People with mental health conditions, their families, and advocates have worked for decades to dispel the notion that people with mental illness are violent or dangerous. By associating sexually violent behavior with mental illness, these statutes threaten gains that have been made in the perception, understanding, acceptance, and non-discriminatory treatment of people with mental health conditions.

4. **Sexual Predator Legislation Distorts Civil Commitment**. Sexual predator statutes distort the meaning and practice of civil commitment. Involuntary civil commitment is very controversial among people with mental health conditions and their families, with some people seeing it as inherently illegitimate because of its coercive nature, and others seeing it as an undesirable but sometimes necessary last resort. MHA shares the latter view. See Mental Health America Policy P-36, "Involuntary Treatment." Involuntary civil commitment may be necessary in some cases as a last resort to protect the health and safety of a person with a mental illness or those in contact with him/her. But the basic rationale of involuntary confinement is that the person is found to be dangerous to self or others at the time of the commitment, that he or she receives treatment and that the confinement is time-limited and paired with a course of treatment. None of these essential elements is present in the case of a sex offender committed after serving a prison sentence. Thus, sexual predator commitments are an abuse of civil commitment.

5. **Confining Sex Offenders with Persons with Serious Mental Illnesses is Unconscionable**. To detain potentially violent sexual offenders in mental health facilities puts other people with mental health conditions in mental health facilities at risk. Even secure forensic units have a treatment purpose. To use such units for the detention of offenders who do not have a treatable mental health condition is a threat to the safety and viability of the mental health system and a waste of precious treatment resources.

6. **Sexual Predator Legislation is Criminal Justice Legislation in Disguise**. Sexual predator laws blur the line between the mental health and criminal justice systems in ways that confuse policy makers, including judges, mislead the public and are unfair even to those who, due to their behavior, may be deserving of long-term incarceration. The criminal justice system is intended to punish only those persons who commit crimes of their own free will. Thus, all but five states provide some form of an insanity defense for those whose crimes are closely related to serious mental illness. Other provisions in the criminal law requiring proof of a specific mental state also contribute to this important protection. Thus, only those persons who choose to commit a sex offense should be convicted and punished for these offenses. The United States Supreme Court has determined that only those sexual predators who are unable to control their sexually violent behavior may be committed under sexual predator laws. Seling v. Young. 531 U.S. 250 (2001). Conversely, sexual predator laws are only applied to persons who have already been convicted and served a term of imprisonment, having been found criminally responsible for their sexually violent behavior. It is unfair to first punish someone (find him/her at fault) for a crime and then commit the person because his/her criminal behavior is caused by a mental illness and, therefore, not his/her fault. Given this contradiction, it is not surprising that these laws were upheld by the Supreme Court by only a one-vote

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margin in Kansas v. Hendricks, 521 U.S. 346 (1997). Moreover, the Court remains badly divided over these laws. In Kansas v. Crane, 534 U.S. 407 (2002), the Court could not reach a consensus on what evidence was needed to establish that someone could not control him/herself and rejected the Kansas Supreme Court's interpretation of that state's statute. The confusion over whether sex offenders are deserving of punishment as criminals or entitled to treatment due to an illness often carries over to the terms of their incarceration. In some states, sexual predators must be cared for in facilities operated by the state mental health authority in a building which is located inside a prison operated by the state correctional authority. This split of authority further confuses employees, detainees and the public about the purpose of these statutes. The United States Supreme Court has demonstrated its own ambivalence about whether these laws are civil or criminal. In upholding the power of the federal government to enact a sex offender commitment law in United States v. Comstock, __ U. S. __, 130 Sup. Ct. 1949 (2010), the Court held that the law was justified as part of the power of the federal government under the "necessary and proper" clause of the United States Constitution to criminalize conduct.

Sexual Predator Legislation Diverts Already Inadequate Resources from Mental Health to Criminal Justice. **Public mental health systems in most states and localities are financially stressed and in many cases inadequately funded to meet the mental health treatment needs of non-offenders with serious emotional disturbances and serious mental illnesses. Because most sex offenders do not have a diagnosable mental health condition relating to their offense, it is extremely difficult to determine which persons who have committed sex offenses should be committed, to provide effective treatment for those who are committed and to determine whether, when and under what conditions a committed sex offender should be released. Thus, states have been forced to spend substantial funds in enforcing these laws. To divert funding to incarceration of sexual predators who will require enormous resources for very long periods of stay diverts scarce resources from mental health systems already experiencing a financial crisis.**

Action Steps

1. Research. States should increase research on sexual disorders and sex offenders to more clearly differentiate between those offenders who are amenable to treatment and those who are not. This will enable a more targeted and appropriate mix of incarceration and treatment that will increase the chances of preventing recurrence and will more appropriately use the tools of both the criminal justice system and the mental health system.

2. **Revise Sentencing Laws and Guidelines.** States should address statutes and policies regarding sentencing and incarceration of sex offenders. If the new determinate sentences for sex offenders are seen by communities as inadequate, then sentencing guidelines and laws should be revised. The mental health system should not be used as a dumping ground for criminal offenders who have served their time but are still seen as dangerous.

3. **Begin Treatment in Prison.** To the extent that some sex offenders have a treatable mental illness, prisons should begin providing treatment for that illness as soon as the offender is incarcerated. Treatment, including where appropriate involuntary commitment under the ordinary civil commitment standards and procedures, may be continued at the end of any prison sentence.

4. **Early Intervention.** States should provide comprehensive diagnostic and treatment services in juvenile corrections systems and all other child-serving systems to identify potential predators early. There is substantial evidence that "sexual predators" quite frequently were themselves victims of sexual violence in childhood or adolescence. It is in everyone's interest to identify and treat at-risk adolescents before they become sexual predators.

5. **Study.** Affiliates and advocates should study the problems of sexual abuse and the criminal justice and mental health response in their states. The effects of new initiatives like sex offender registration and sexual predator legislation need to be documented, and new approaches need to be developed to protect the public, persons within the mental health system and persons convicted of sex offenses alike.

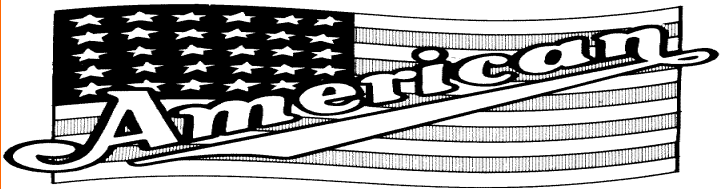
Effective Period

The Mental Health America Board of Directors approved this policy on March 5, 2011. It will remain in effect for five (5) years and is reviewed as required by the Mental Health America Public Policy Committee.

Expiration: December 31, 2016

1. *The Hendricks Court rejected the position taken in briefs amicus curiae from both the American Psychiatric Association and the American Psychological Association that the Kansas statute allowed the commitment of persons who were not mentally ill. The majority held that the Hendricks must be mentally ill solely because he could not control himself.*

See, for example, the Illinois law, 725 ILCS 207/50



Monday, August 15, 2011

Pretrial Civil Detention of Sex Offenders Unlawful, Judge Rules

A New York law mandating that sex offenders be confined while awaiting civil commitment trials is unconstitutional, a judge has ruled. But the ruling may not make much difference to most sex offenders whom the state wants to civilly detain, because they are waiving away their rights to a trial.

Supreme Court Justice Colleen Duffy ruled that New York's 2007 Sex Offender Management and Treatment Act is unconstitutional because it does not allow for any less restrictive remedy such as supervised release. Under the law, if a court finds probable cause that a convicted sex offender remains a danger, the individual must be confined until a civil trial, which can take a year or more.

Ironically, if the sex offender is ultimately found to suffer from a "mental abnormality" that renders him potentially dangerous to the public, the court then has the option of ordering intensive community supervision rather than involuntarily confinement in a mental institution.

In the case at hand, the judge noted that the state's Office of Mental Health had already determined that "Enrique T." would be a good candidate for strict, outpatient supervision rather than confinement. She ordered the immediate release of the detainee:

> **"Respondent is faced with a Morton's Fork – he must either choose to enforce his right to a jury trial and continue to be detained for an unknown period of time in a psychiatric facility awaiting trial on this matter or surrender his right to trial and consent to a finding of mental abnormality so that he may be immediately released back to the community under [strict and intensive supervision and treatment]. Due process cannot countenance a statute that mandates such a choice."**

Her decision follows a federal court decision earlier this year that came to the same conclusion, according to a report by John Caher in the *New York Law Journal*.

Sex Offenders Choosing Not to Fight Commitment

Unless these rulings result in complete scrapping of the state's civil commitment scheme, which is unlikely, it is unclear how many sex offenders whom the state seeks to detain will end up benefitting. For reasons that experts call "inexplicable," the majority of offenders are waiving their right to a jury trial, according to a separate report in the *New York Law Journal*. Reports John Caher:

> **Shortly after the Sex Offender Management and Treatment Act took effect in April 2007, authorities detected an unexpected and inexplicable phenomenon: Sex offenders targeted for civil confinement after serving their prison sentences were overwhelmingly waiving their right to a jury trial and consenting to confinement. Nearly 92 percent, 33 of 36 of the sex offenders civilly confined during the first year of the law's enactment had agreed to placement in a mental institution following release from prison. And while those numbers have tapered off in the last three years, a large portion of the sex offenders targeted for civil management continue to forego their right to a trial and consent to confinement, even though the most serious consequence of going to trial is confinement…**
>
> **No one is sure why sex offenders are consenting to confinement and giving up their liberty when… they seemingly have nothing to lose. At trial after they have served a criminal sentence, the state has to prove by the high standard of clear and convincing evidence that the respondent suffers from a "mental abnormality" that predisposes him or her to commit sex crimes. A unanimous verdict is required, and if a unanimous verdict is not reached, the offender will likely go free since most have served the maximum sentence and are not on parole.**
>
> **The success rate when offenders go to trial is fairly high, about 15 percent overall and more than 20 percent when they opt for a jury rather than a bench trial.**

Theories offered by an assortment of experts and state officials to explain this unexpected trend include:

Sex offenders believe that confinement is inevitable so choose to avoid the added humiliation and angst of trial.

Sex offenders know they are dangerous and need help in order to not reoffend.

Some offenders cannot find any doctor willing to testify on their behalf.

Some offenders are so marginalized and despised that they have no options for employment or housing in the community.

"A great deal of these folks have no social safety net," said defense attorney Thomas Callaghan. "Many of them are estranged from their families. Very few are married. They realize they can fight, but they really have no place to go."

Lesley M. DeLia, another legal services attorney, echoed this observation. She said some clients were initially eager to go to court, but balked as their trial date loomed closer:

"They know it is not a friendly world out there if they get out. They are scared about what life will be like… and some of them just don't want to deal with it. There is no housing for them. They can't get jobs. Others are just so institutionalized they are afraid to go. We did have one fellow who said he knows his is not ready and does not want to get out and do it again."

Karen Franklin, Ph.D. *is a forensic psychologist and adjunct professor at Alliant University in Northern California. She is a former criminal investigator and legal affairs reporter. This blog features news and commentary pertaining to forensic psychology, criminology, and psychology-law. If you find it useful, you may subscribe to the newsletter. See Dr. Franklin's website for more information.*

Now that we, the residents, are engaged in a struggle to have our rights recognized by the administration through various legal means (Licensing and the courts), as editor, I thought I would share with everyone this article taken from ***Encyclopedia of American Law, 2002 Edition, by David Schultz***. This nation has a long, and checkered history of civil rights abuses and we are just the latest group to make the list. I now present to you…

CIVIL RIGHTS

Civil Rights mandate equal treatment of citizens by other members of society. In contemporary American political life, a person has a civil right to be treated similarly to all other citizens, without being discriminated against for reasons of (in the language of Title VII of the 1964 Civil Rights Act) race, color, religion, sex, or national origin. This was not always the case. The history of civil rights in the United States is the checkered story of outsiders struggling to be included as equal participants in society.

Civil rights struggles are conventionally traced to the end of the Civil War and ratification **class action 89** of the equal protection clause of the Fourteenth Amendment in 1868. In fact, civil rights are implicit in the language of the 1776 Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal. . . ." In the 1830s William Lloyd Garrison, editor of *The Liberator,* insisted on civil rights for blacks as well as the immediate abolition of slavery. The 1848 Seneca Falls Declaration of Rights and Sentiments was adopted by a group of women gathered to consider the "social, civil, and religious condition and rights of women." It proclaimed "that all men and women are created equal." In the depths of the Civil War, in November 1863, Abraham Lincoln reaffirmed at Gettysburg that the American nation was "dedicated to the proposition that all men are created equal." Thus, the language of the Equal Protection Clause is the heritage of nearly a century of civil rights struggles. That clause holds that "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

For more than three-quarters of a century after its ratification—between 1868 and the mid-1940s—the principle of equal citizenship at the core of the equal protection clause was in eclipse. In the late 19th and early 20th centuries, civil rights struggles against Jim Crow laws and for women's suffrage took place in the shadow of the Supreme Court's indifferent neglect and legal defeat of civil rights, and in the teeth of fierce social resistance. Ironically, changing judicial and social attitudes toward civil rights was signaled in a 1944 Supreme Court decision upholding the constitutionality, under the equal protection clause, of the exclusion and confinement of over 70,000 American citizens of Japanese descent. In the course of validating these wartime restrictions in *Korematsu v. the United States,* 323 U.S. 214, the Court observed: "all legal restrictions which curtail the civil rights of a single racial group are immediately suspect" and should be given "the most rigid scrutiny."

Constitutional civil rights, under the equal protection clause, emerged in the second half of the 20th century in conjunction with the Civil Rights movement and the Women's movement. Both these civil rights struggles and the Supreme Court's interpretation of the equal protection clause evolved from initially challenging laws requiring discrimination on the basis of race and sex, to advocating and, in the Court's case scrutinizing, positive government responses to remedy the consequences of past discrimination.

As the focus of activism and law shifted in the 1970s, civil rights debates again sharpened. The consensus against segregation and universal suffrage unraveled. Policies such as busing and affirmative action generated controversy and incurred resistance. Further fueling civil rights disputes was the rise of the Gay Rights movement following the 1969 Stonewall riots in New York City. Although disparate treatment of people based on their race or their gender—both characteristics generally and legally assumed to be innate—is widely understood to violate civil rights, many view differential treatment of gays and lesbians as a rejection of their lifestyle choices.

For more information

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McGlen, Nancy E., and O'Connor, Karen. *Women, Politics,and American Society,* 2nd ed. Upper Saddle River, N.J.: Prentice Hall, 1998.

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New York: Oxford University Press, 1979.

James C. Foster

Dr. Kasdorf's Presentation to Phase Collaborative Leadership Skills (PCLS)

The current treatment program will be changed from its '*One-Size-Fits-All'* modality to one addressing a person's positive strengths.

It will be based on the "*Good Lives Model*" (GML) treatment of finding coping strategies for risk factors. Staff and facilitators will be going through very rigid and specific training.

It will rate identified risk factors using VRSSO – '*Violent Risk Assessment for Sex Offenders*' and focus upon stages of change for each factor. There has been way too much subjectivity to what risk factors are considered a recidivistic problem.

Individuals will be processed through a '*Treatment Readiness Group*' with pre-treatment orientation will rate a persons risk factors to be addressed.

A core group will replace the present Phase I-thru-IV stages. An individual will be rated and placed in this core group to address all his barriers to discharge. Individuals will remain with his core while pursuing his treatment needs. The brunt of the work in this core group mostly resembles that done in Phase II.

The new program will be designed more around strength-based positive and current traits and less on the old (overly) detailed, shame-based protocol which focused on early age inhibiting factors that got individuals into trouble.

'Positive Psychology' will reinforce strength-based behaviors by measuring values-in-action.

A 24-25 base questionnaire will be given to determine a person's strengths in rank order to find five-core strengths of each individual.

GML focuses on what one enjoys in life and what positive direction one wants to go in life.

QUESTIONS FROM PANEL:

How will this be implemented and staged?

People will have more risk factors than others and they will have to focus on more different needs than someone else. The highest stage will be "Maintenance" and where all or most risk factors have been addressed and deemed as an unnecessary focus. "Walk-the Talk" will mean something tangible at this stage and appropriate coping skills will be recognized.

Will barriers to discharge still be the main gist?

Environmental and external difficulties will be addressed differently once the VRSSO gives an individual a rating determination.

What about lack of concern/empathy for others?

Of all the dynamic risk factors this one is most subjective as a rated issue.

How long will it take someone to get through this new program?

Hopefully not more than 4-5 years. Different individuals will progress at different paces and stages.

How does it affect Liberty/CONREP?

We are just now beginning dialoging with Liberty about eliminating the current Phase program.

GLM is based on a Self Regulation model?

Yes. It is similar to Phase II criteria but with assessing the different pathways individuals used to offend and considering higher risk factors associated with each individual's behavior patterns.

The VRSSO consists of dynamic questions?

Yes, ones hopefully to identify a person's core and ingrained behaviors as rated on their risk factors.

Will this be another way to keep someone definitely incarcerated?

I certainly do not believe so. Identifying static risk factors are things that got you here and can't be changed too much. Dynamic risk factors have predisposed or contributing factors to offending that can be changed and makes sense to address and change. The political climate and media espousal with so much social pressure demonstrates a lack of discriminating one person for another. Presently, media tends to focus on SVP cases involving murder and/or mutilation.

Reliability and training who will be assess testing?

Assessing will be done strictly by psychologist while unit social workers will do histories.

What about PTAP factors?

We are in the process now of revamping the entire program.

Dr. Kasdorf finished his presentation by advising panel that the issue on polygraph testing is still under review and research.

California Department of Mental Health

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(916) 651-1843

Date: July 5, 2011

To: SVP Clinical Evaluators

From: Sex Offender Commitment Program

Subject: **EVALUATOR INFORMATION NOTICE No. 2011-01**

[*Information Notices convey information to clinical evaluators in the Sexually Violent Predator (SVP) civil commitment program (WIC 6600, et seq) about assessments and evaluations. Information Notices will be made available to District Attorneys and defense attorneys. Evaluators are encouraged to keep these notices for future reference.*]

The Department of Mental Health will regularly issue information notices to clarify and reiterate evaluation issues. The Department issues this information notice to discuss the requirements of Welfare and Institutions Code (WIC) Section 6600 (c).

WIC 6600(c) states:

Diagnosed mental disorder includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

The statutory language requires evaluators to determine whether a diagnosed mental disorder is present. The statute does not limit the term "congenital or acquired conditions" to any subcategory of conditions or diagnoses. Specifically, the statute does not limit the condition to paraphilias (those disorders characterized by recurrent, intense sexually arousing fantasies, sexual urges, or behavior). Likewise, the statutory language does not qualify or limit the term "predisposes" to paraphilic predisposition.

In the context of WIC 6600(c), "congenital or ac1quired condition" designates by plain language that any condition, whether congenital (present at birth) or acquired (post birth) fulfills the requirements of the statute. Best practice indicates that a congenital or acquired condition is a condition recognized and listed in the contemporary edition of the Diagnostic and Statistical Manual (DSM) of the American Psychiatric Association. In plain English the word *"predispose"* is not read to contain *paraphilia* or *paraphilic*.

Evaluators must consider whether or not other conditions predispose the person to the commission of the criminal sexual acts to the degree and of the kind described in the WIC 6600(c). Considering only paraphilic conditions or only paraphilic predisposition is insufficient.

A condition that predisposes as described in WIC 6600(c) must also "affect the emotion or volitional capacity" in order to complete the finding of "diagnosed mental disorder."

An evaluator exercises independent judgment regarding the diagnoses of mental conditions. Evaluators must correctly understand and apply the criteria in WIC 6600(c) in their reports so that is understandable by readers of reasonable intelligence with no special education or knowledge in the fields of psychiatry, psychology, or the law.

If you have questions regarding this notice please contact Ron Mihordin, M.D., J.D., M.S.P., Acting Clinical Director of Forensic Evaluation Services, Department of Mental Health at 916-654-3414 or Ronald.mihordin@dmh.ca.gov.

California Department of Mental Health

1600 9th Street, Sacramento, CA 95814

(916) 651-1843

Date: February 16, 2010

To: Steve McManus

From: Department of Mental Health

Sex Offender Commitment Program

Subject: Assignment of New Evaluations pursuant to Ronje

Per our discussion with our legal office we will be utilizing the following process when scheduling new evaluations court ordered pursuant to Ronje:

1. Evaluators currently on the case will be assigned, unless the court orders us to assign new evaluators.

2. In instances in which more than two evaluators are on a case, only the evaluators who have found the person positive will be scheduled to complete new evaluations. Evaluators who have opined that the person does not meet criteria will not be assigned new evaluations as the outcome of the negative evaluation(s) is unlikely to change.

Robert Lucas

Chief

Sex Offender Commitment Program

Licensing Complaints

If you feel that there is a violation of your rights under the hospital's license (intermediate care facility) as set out in Title 22, you need to send a written complaint or make a phone call (909) 885-3879) to:

Licensing and Certification
State Facilities Unit District Office
c/o Nancy Alvarez
Health Facilities Evaluator Supervisor
625 E. Carnegie Drive, Suite 280
San Bernadino, CA 92408

Any legitimate complaint based on issues regarding violation of licensing requirements by Coalinga State Hospital will be investigated.

The Department of Public Health will send an investigator to research your claim and you and/or your representative "may be allowed to accompany the inspector to the site of the alleged violations during his or her tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby." Should you and/or your representative wish to accompany the evaluator (inspector), please note the following restrictions necessary to ensure the privacy and confidentiality of all patients/records. You and/or your representative **may not:**

- ⇒ Conduct interviews or assist in conducting interview.
- ⇒ Conduct reviews of health records or other confidential materials such as personnel files or incident reports.
- ⇒ Use cameras, videos cameras, or tape recorders.

The Insider hopes that this information will help those of you who wish to pursue complaints regarding our conditions of confinement.


Potomac News & Manassas Journal Messenger

SERVING THE PRINCE WILLIAM REGION

EXTRA EXTRA EXTRA

Tuesday, September 11, 2001

A Media General Newspaper

U.S. ATTACKED

INSIDE

PENTAGON BURNS; D.C. EVACUATED

The world as we had known it ended on September 11, 2011 when four airliners in the United States were hijacked and used as weapons against our country. For the first time, terrorists had struck a blow against the interior of the United States in multiple locations.

Heroically, the passengers on Flight 93 caused their aircraft to crash in Pennsylvania; saving the lives of a untold number of people that would have died on the ground if that plane had hit its target.

When the smoke cleared, the United States had changed forever. Many of our citizens had died in the Pennsylvania field, the Twin Towers, and the Pentagon. The passengers of four airliners had been murdered as well.

As a nation we will always remember those that died on 9-11.

Sadly, something else died that day. The concept of "freedom for all" as written into all our founding fathers' ideas of what this country was to be. Farewell then to: Freedom.

CDAC has made the following recommendations in the past for the reduction of violence, or which would have the effect of reducing violence in the hospital.

They have one thing in common:

They have all been denied…

- *Truth in records and in diagnoses*
- *Follow accepted standards of treatment (APA)*
- *Realistic treatment completion outcomes (timely releases)*
- *Repeal of AD 4350 (electronics)*
- *Complete privacy curtains (Committee formed to review)*
- *Open more yards*
- *More hours on the yards*
- *Better food*
- *Convenience moves*
- *Eliminate excessive lights in rooms (night lights & windows)*
- *Proper reviews for safety when moving residents*
- *Better access to facilities (library, gym, Grand Meeting Room, etc.)*
- *Restrict speaker use after 9:00 p.m. (In the works now)*

Nonetheless, CSH administration insists that they are concerned with this growing problem, and welcome suggestions from the residents for the reduction of violence in the facility.

LEAST-RESTRICTIVE-MEANS TEST

The rule that a law or governmental regulation, even when based on a legitimate governmental interest, should be crafted in a way that will protect individual civil liberties as much as possible, and should be only as restrictive as is necessary to accomplish a legitimate governmental purpose.

Black's Law Dictionary (8th ed. 2004)

What Do You Think?

All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression.

First Inaugural Address, 4 March 1801, Thomas Jefferson 1743-1826

The Insider (in all its forms) is being produced to present news related to the Sexually Violent Predator Act, conditions of confinement here at Coalinga State Hospital, and daily events. It is also here to give every member of this population (6600 or 2972) and a chance to have their voice heard somewhere other than in these halls. *We are inviting everyone to contribute something.*

The Insider is available monthly in JPEG format for viewing on your DVD players within the hospital. For your connections outside, ***The Insider Online*** is at www.defenseforsvp.com. There is also a four page edition, ***The Insider Outreach*** that is being produced and sent to other institutions with SVP Detainees.

GUIDELINES FOR PUBLICATION IN *THE INSIDER*

All submissions to ***The Insider*** are subject to editing for proper grammar, punctuation, length, language, and clarity. They may not include hate-speech, inciting or inflammatory language, or unnecessary profanity. Submissions may be returned to the individual author for revision or rejected outright.

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The Insider is produced at Coalinga State Hospital, in Coalinga, California. Material published in this electronic paper is written, edited, and published entirely by hospital residents without input or editing by staff.

The ideas and opinions expressed herein do not reflect the opinions of the hospital's staff or its administration, unless otherwise noted.

The Insider is dedicated to fair, unbiased and impartial reporting of information, current events and news that is of interest to civil detainees and others who are interested in finding out about the real people here. Any questions and correspondence can be submitted by mail to:

William Hester
CO#532-2/Unit 4
P.O. Box 5003
Coalinga, CA 93210-5003

Let' us remember all those who have fallen since the beginning of this law and pray that they now know the freedom that was denied them in life...

Robert Cloverdance; Carl Coleman; Jim Davis; Don Lockett; David Stansberry; Charles Rogers; Larry Goddard; Ed Samradi; Dean Danforth; Craig Rauwens; Wayne Graybeal; Donald Hughes; Lloyd Johnson; Robert Alperin; Tim McClanahan; Patrick Brim; Wayne Porter; Cash O'Doyd; Elmer Bock; Dave Gonick; Jose Vlahoitis; Corwin Weltey; Ross Washington; Richard Bishop; Alton Robinson; Robert Canfield; Jerry Sanchez; Gerald Brooks; James Aceves; Frank Valadao; Donovan Myrick; Paul Real; Paul Pedersen; Kenneth Edmonton; Jimmy Guthrie; James Rosenberg; Charles Grecien; David Harney; James Wallace; Jare Stevens; John Martinez; Delbert Smith; Dennis Boyer; Ruben Garcia; Wilbur Perryman; David Montgomery; William Laughlin; Richard Garcia; Francs Hansen; Steve Mendoza; Robert Berry; Ramon Malbrough; Vernon Madden; Victor "Weasel" Segovia; John "Colonel" Norman; Harold Eugene Carmony; Frederico Moreno; George Hulbert; George Funes; Alvin Burns (08-11-11); and Lawrence Smith (08-13-11)