



California Behavioral Health Planning Council

Advocacy • Evaluation • Inclusion

CBHPC Patients' Rights Committee

2021 Survey of County Mental Health Patients' Rights Advocates on Patients' Rights Advocacy in County Jails

March 2022

Background

[The Patients' Rights Committee](#) (PRC) of the [California Behavioral Health Planning Council](#) (CBHPC) is mandated in state law to advise the Departments of Health Care Services and State Hospitals regarding policies and practices that affect patients' rights. The PRC also monitors, reviews, evaluates, and makes recommendations for the protection and upholding of patients' rights to receive effective, timely, and humane treatment in the public mental health system of California. One of the ongoing goals of the PRC is to raise awareness of the work of county mental health patients' rights advocates (PRAs) and the vital work that they do to ensure the rights of mental health patients across California.

In recent years, the PRC has identified patients' rights in county jails as an area of particular interest through conversations and presentations from patients' rights advocates and organizations such as Disability Rights California and the ACLU of San Diego. It became clear that advocates working in county jails face many challenges and obstacles when it comes to providing services to incarcerated patients. This is of great concern because mental health patients' in county jails are often underserved and particularly vulnerable to patients' rights violations. The PRC endeavored to continue investigating these issues as part of their goal of reviewing and evaluating patient's rights in California.

As part of these efforts, the Patients' Rights Committee conducted a survey of local behavioral health boards and commissions in 2020. The purpose of the survey was to see how familiar the boards and commissions are with the duties and responsibilities of county mental health patients' rights advocates (PRAs), as well as the work that they do in county jails specifically. A [report of the results](#) of that survey, which received responses from 41 boards and commissions, was published in February 2021. Over 60% of the participating boards and commissions reported that their members were not familiar with the duties of PRAs to serve patients in county jails. Unsurprisingly, a similar percentage did not know if PRAs in their county had access to county jail facilities, individual inmates, or inmate records.

The PRC followed up on this survey with another survey later in 2021, this time aimed at patients' rights offices throughout the state. The goal of this survey was to gather information from PRAs directly regarding their work in county jail facilities. The survey was distributed with the assistance of the California Association of Mental Health Patients' Rights Advocates and the California Office of Patients' Rights, and outreach was conducted by members of the PRC throughout the summer and fall of 2021.

Survey Results and Discussion

A total of **29** PRA teams responded to the survey. Question 1 of the survey asked the respondents to identify the county/counties they provide patients' rights advocacy

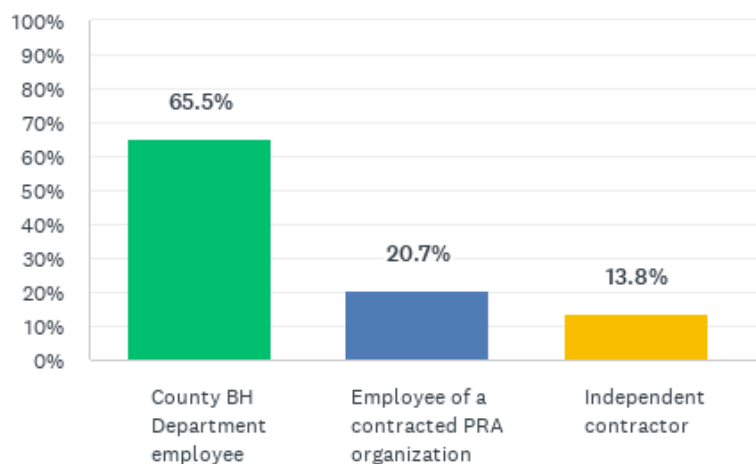
services in. Notably, some contracted advocates or advocacy organizations operate in more than one county. A total of **40** counties are served by the responding PRA teams, as shown below.

Question 1: *What county/counties do you provide patients' rights advocacy services in?*

Q1 Responses: Alameda, Alpine, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Imperial, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Mono, Napa, Nevada, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Barbara, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Ventura, Yolo, and Yuba.

Question 2 (see figure below) asked about the employment status of the respondent. There are multiple ways that PRAs can be employed, and the Patients' Rights Committee is interested in seeing how many are county employees compared to contracted employees, as they sometimes face different challenges. Of the 29 responses, a majority (65.5%) reported that they were employees of the county behavioral health department, 20.7% said they were employees of a contracted PRA organization, and 13.8% said they were independent contractors.

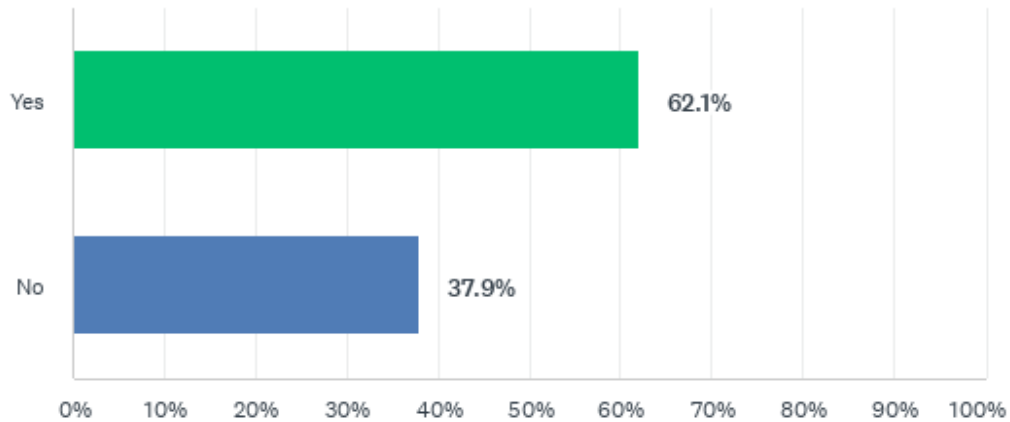
Question 2: *Please select the option that best describes your employment status.*



The next question (Question 3) asked whether or not the respondent or their PRA team is able to provide patients' rights advocacy services in local county jail facilities. A majority (62.1%) said "yes", while a smaller percentage (37.9%) said "no". While it is good to see that most responding PRA teams are able to conduct work in county jails,

the fact that close to 40% cannot is potentially concerning. Furthermore, respondents who answered “yes” could still be facing challenges in their work providing patient’s rights services, an issue explored in the next question.

Question 3: *Are you or your PRA team/office able to provide patients' rights advocacy services in local county jail facilities?*



Question 4 of the survey asked respondents to identify what challenges they face in regard to providing PRA services in county jails. The question had multiple answer choices, and respondents were asked to select all that applied. There was also an “Other” category with the option to write in a text response. The breakdown of responses is shown in the chart below.

Question 4: *What challenges do you or your PRA team/office have in regard to providing patients' rights advocacy services in county jails? (please select all that apply).*

Answer Choices	Responses
None of the above	27.6%
Lack of access to jail facilities	27.6%
Inadequate access to inmates	34.5%
Inadequate access to inmate records	10.3%
Poor relationship with County Sheriff’s office or staff	6.9%
Not enough time or staff to cover PRA work in county jails	12.8%
Other (please specify)	41.4%

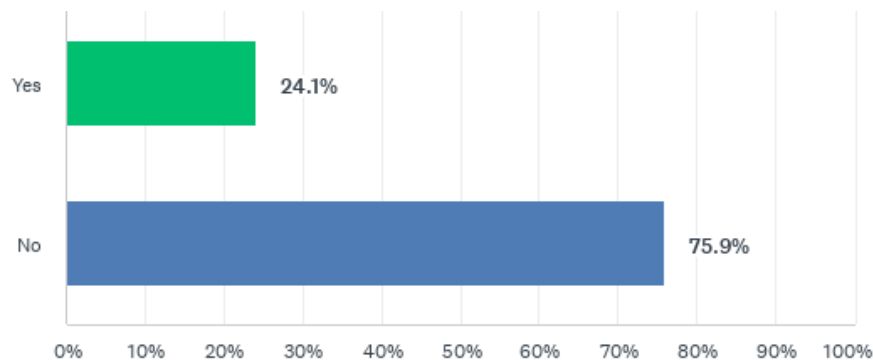
Only 27.6% of respondents answered “none of the above,” while the majority of respondents reported one or more challenges in providing patients’ rights advocacy services in county jails. The most common specific challenges selected were “inadequate access to inmates” at 34.5% and “lack of access to jail facilities” at 27.6%.

About 40% of the respondents selected the “Other” option and wrote in a response. Some of the provided written responses include:

- We have not had any requests. We have the ability to provide if needed.
- Unknown what the relationship is like, haven't been reached out to by County Jail. Unknown how to establish relations.
- Not enough knowledge on our scope or authority in a jail without a designated LPS unit.
- It is very hard to get access to inmates unless they are in the inpatient unit.
- Lack of confidentiality due to phone situation at jail.
- The [mental health service provider] in the jail has their own internal process.
- We have pretty good relationships with jail staff (not as good as with LPS hospital staff), but we do struggle with difficulty of access to inmates in a timely fashion, and we have difficulty applying LPS patients' rights in a jail setting, where it is often difficult to make those rights fit the jail setting.
- PRAs do not handle these functions in the [local county] jails.
- Unless the client directly asks for a PRA, they are not contacted.

These responses identify a variety of potential challenges for PRA teams working in a county jail facility, as well as some reasons why they may not be currently providing services in those settings. Several comments mention a lack of knowledge or clarity regarding the authority of PRAs in county jails. A couple others mention that PRAs do not serve patients in the jail unless specifically called in to do so, which is problematic when patients may not have adequate information regarding their right to advocacy services or may lack the confidentiality and privacy to reach out.

More than one of the responses mentioned difficulty establishing PRA authority or accessing inmates without the presence of an inpatient or LPS-designated unit in the jail. When asked whether there is an LPS-designated jail unit or county-designated inpatient jail facility in their jurisdiction (Question 5), about 24% answered “yes”, while 76% answered “no”.



Question 6 asked about service providers for mental health services in the local county jail facilities. The most common answers were “third party organization contracted by the County Sheriff’s Office” (34.5%) and “County Behavioral Health Department Staff” (31.0%), followed by “County Sheriff’s Office / jail facility staff” (20.7%).

Question 6: *To your knowledge, who provides mental health services in your local county jails facilities? (select all that apply).*

Answer Choices	Responses
County Behavioral Health Department staff	31.0%
County Sheriff’s Office / jail facility Staff	20.7%
Third party organization contracted by County Behavioral Health Department	13.8%
Third party organization contracted by the County Sheriff’s Office	34.5%
Unknown	10.3%
Other	13.8%

When comparing the answers to Question 6 with those from Question 2, most of the respondents who chose “County Behavioral Health Department staff” or the two “Third Party organization” options said they were able to provide services in county jails. This was not true for the “County Sheriff’s Office / jail facility staff” category, where more respondents answered “no” on Question 2 than “yes”. Though the sample size of the survey is too small to say with certainty, this may suggest that PRAs have a harder time accessing patients in county jails when County Sheriff’s Office and jail facility staff are responsible for providing mental health services.

For Question 7, respondents were given an opportunity to write their own comments regarding patients’ rights advocacy services in county jails. Most of them declined to provide comments, but about a third did submit input. The responses for this question are listed below:

Question 7: *Do you have any comments regarding patients' rights advocacy services in county jails? (optional)*

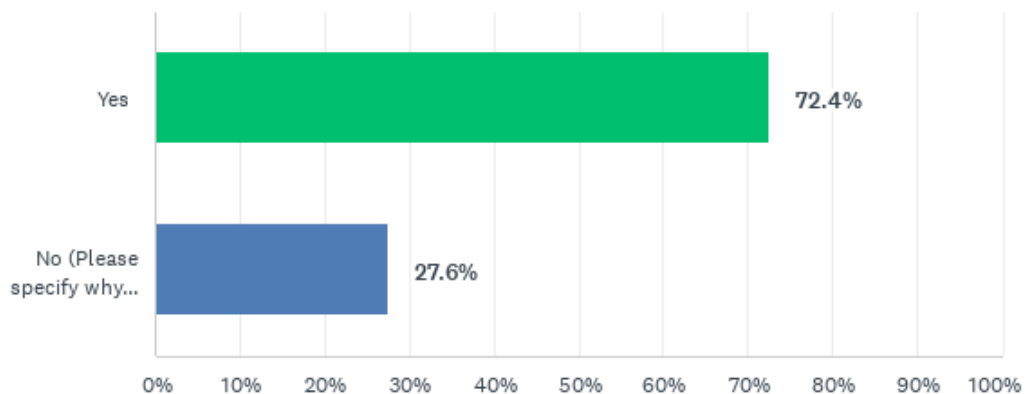
- I would like more information on the duties of a Patients' Rights Advocate in the jail system. Especially, when the jail does not have a designated LPS unit.
- Do most counties have a policy and procedure for MH coordination of care upon release from jail?
- It is extremely limited, we usually get told that violations are related to just being an inmate. We have tried to collaborate, however they are very resistant.
- Would like to understand state expectations of my situation.

- I think a Jail Advocacy training would be a good idea and opportunity for PRA's.
- We would love to do more, but funding and resources are an issue for our program. We have struggled to find what organization/agency is responsible for providing this care, and we have not found any other resources in this area.
- Difficulty communicating with clients except in person because Jail staff are not mailing letters for our clients, not allowing program time to access the phone, etc.
- Our BH Director did not believe the PRA has any jurisdiction to advocate in the jail. She is still unsure, but is allowing her Asst. Director to try to move forward on setting some parameters so I can begin.
- I think our county needs more of it.

The written responses for Question 7 provide further insight into some of the challenges facing PRAs regarding advocacy services in county jails. Several comments share a common theme of a lack of knowledge or resources regarding the duties of PRAs in county jails. One respondent even remarked that their Behavioral Health director was unsure of their jurisdiction in the jails. Responses also mentioned difficulty communicating with clients in jails and resistance to access and collaboration. All of these highlight the need for increased awareness of the role and authority of PRAs regarding mental health patients in jails.

The last question, Question 8, asked PRAs if they attend local behavioral health board/commission meetings. This questions was a follow up to the 2020 survey of local behavioral health boards and commissions. The PRC is invested in increasing communication, collaboration, and awareness between local boards/commissions and county patients' rights advocates so that they can collectively work towards better outcomes in their communities. Over 70% of the participants said that they did attend local board/commission meetings, as shown below.

Question 8: Do you attend local behavioral health board/commission meetings?



Those who responded “no”, which was around 28% of the respondents, were asked to specify why they did not attend. The explanations mixed, ranging from there not being

enough time to staff to attend, to having stopped since the COVID-19 pandemic began, or simply because they were not required to or had not been invited to attend.

Conclusion

The responses collected for this survey provide more insight into the challenges and obstacles that patients' rights advocates deal with concerning the complex and difficult work of serving mental health patients in county jails. Inadequate access to jail facilities and inmates were reported as a barriers for a significant amount of the respondents, which is in line with what the PRC has heard in previous conversations and presentations with PRAs and advocacy organizations. PRAs need access to patients in county jails, and likewise, these inmates need access to advocates as well in order to acquire the services and protections that they are entitled too. An inability on the part of inmates to contact patients' rights advocates or communicate with them confidentially, as some respondents mentioned in written responses, potentially prevents PRAs from fulfilling their mandated duties for these patients.

A lack of information regarding the duties and authority of advocates to serve patients in jail facilities is another barrier. Some PRAs themselves have unanswered questions about the subject, and a lack of clear guidelines or resources contributes to their difficulties. The role and authority of PRAs to serve mental health patients in the absence of an LPS-designated unit within the jail seems to be a particular point of confusion for some advocacy teams, and is a topic that could benefit from further investigation. Ignorance or resistance on the part of the local Behavioral Health Department staff or Sheriff's Office regarding advocacy in the jails could also contribute to previously mentioned access issues for advocates.

Identifying and understanding these barriers is an important step in addressing the problem. It is a goal of the PRC to increase awareness of these issues and to advocate for a better system in which patients' rights advocates are able to freely and effectively fulfill their duties in county jails. This will in turn help ensure the protections and rights that all mental health patients in California deserve.

The appendix at the end of this report, which was also included in the 2020 survey report, includes a brief overview of the duties and authority of mental health patients' rights advocates in California. It also includes a link to the 2017 white paper that the PRC released in coordination with CAMHPRA, which explores some of the challenges that PRAs face in their work.

Appendix: Patients' Rights Advocacy Information and Resources

The duties and authority of California county mental health patients' rights advocates are outlined in Welfare & Institutions Code §5200 and California Code of Regulations §863.2, and include but are not limited to:

- To ensure that information about patients' rights is posted in all facilities providing mental health services, and that all incoming clients and recipients of mental health services in all licensed health and community care facilities are informed of their rights.
- To receive and investigate complaints from or concerning patients about violations or abuse of their rights.
- To monitor mental health facilities, services, and programs for compliance with patients' rights laws, regulations, and policies.
- To train and educate mental health providers about patients' rights, laws, regulations, and policies and act as a consultant to staff in mental health facilities in the area of patients' rights.
- To advocate for patients and residents who are unable or afraid to register a complaint.
- To act as liaison between the advocacy program and the California Office of Patients' Rights.
- Many county Patients' Rights Advocates are also responsible for representing patients in certification review and/or capacity to give informed consent hearings.

County jail facilities that provide mental health services fall under the definition of "mental health facilities." Thus, the authority of PRAs extends to **any inmates receiving mental health treatment in jails**, and county PRAs have a right of access to jail facilities, jail inmates, inmate records, and jail employees providing mental health services.

The CBHPC Patients' Rights Committee, in collaboration with the California Association of Mental Health Patients' Rights Advocates (CAMHPRA), has published a white paper highlighting resource, training, and retaliation issues in county patients' rights programs in California. This paper can be accessed at:

<https://www.dhcs.ca.gov/services/MH/Documents/Patients%27-Rights-Committee/PRA-Survey-White-Paper-FINAL.pdf>

Other links:

California Office of Patients' Rights (COPR): <https://www.disabilityrightsca.org/what-we-do/programs/california-office-of-patients-rights-copr>

California Association of Mental Health Patients' Rights Advocates:
<https://www.camhpra.com>