

# California Behavioral Health Planning Council

## Patients' Rights Committee Agenda

Wednesday, January 15, 2020

Holiday Inn San Diego Bayside

4875 North Harbor Drive, San Diego, CA 92106

Point Loma Room

10:30am to 12:30pm

<b>TIME</b>	<b>TOPIC</b>	<b>TAB</b>
<b>10:30am</b>	<b>Welcome and Introductions + Approve Minutes</b> <i>Walter Shwe and All</i>	<b>Tab A</b>
<b>10:35am</b>	<b>Updates: AB 2316</b> <i>Walter Shwe and All</i>	<b>Tab B</b>
<b>10:45am</b>	<b>Presentation: San Diego Defense Transition Unit</b> <i>Neil Besse, San Diego Public Defender Office</i>	<b>Tab C</b>
<b>11:30am</b>	<b>Survey Development Discussion</b> <i>Walter Shwe and All</i>	<b>Tab D</b>
<b>12:15pm</b>	<b>Plan for Next Meeting</b>	
<b>12:25pm</b>	<b>Public Comment</b>	
<b>12:30pm</b>	<b>Adjourn</b>	

*The scheduled times on the agenda are estimates and subject to change.*

### **Patients' Rights Committee Members**

**Chairperson:** Walter Shwe

**Chair Elect:** Catherine Moore

**Members:** Daphne Shaw, Darlene Prettyman, Richard Krzyzanowski, Susan Wilson, Mike Phillips

**Staff:** Justin Boese

*If reasonable accommodations are required, please contact the CMHPC office at (916) 552-9560 not less than 5 working days prior to the meeting date.*

**California Behavioral Health Planning Council**  
**Patients' Rights Committee**  
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**Agenda Item:** Review and approve meeting minutes from October 16, 2019

**Enclosures:** Draft of PRC meeting minutes from October 16, 2019

**Background/Description:**

Enclosed is a draft of the meeting minutes from October 16, 2019, prepared by Justin Boese. Committee members will have the opportunity to ask questions, request edits, and provide other feedback.

**DRAFT**  
**Patients' Rights Committee**  
**Meeting Notes**

Quarterly Meeting – October 16, 2019  
10:30 – 12:30 pm

**Committee Members Present:**

Walter Shwe, Chairperson  
Catherine Moore, Daphne Shaw, Susan Wilson, Richard Krzyzanowski, Mike Phillips

**Council Staff Present:**

Jane Adcock, Justin Boese

**Guests Present:**

Hector Ramirez (CBHPC), Caitlin Woodruff (Jewish Family Service of San Diego), Theresa Comstock (CALBHBC),, Posh Walker (#Out4MentalHealth), Merida Saracho (San Bernardino Office of Patients' Rights).

**Welcome & Introduction**

Walter Shwe welcomed all committee members. Committee members, staff, and guests introduced themselves. A quorum was reached. The members welcomed Mike Phillips to the committee. Mike is Director of Patient Advocacy at Jewish Family Service of San Diego, and is filling the vacant ad-hoc committee member position. Members also welcomed Hector Ramirez, a new Planning Council member and a member of the Disability Rights California Board of Directors.

**Review and Approve Minutes**

The meeting minutes from June 2019 were approved. Motion by Susan Wilson, seconded by Catherine Moore. Mike Phillips abstained.

**Updates: AB 2316 and AB 333**

Daphne Shaw updated the committee on AB 333, the Patients' Rights Advocate (PRA) whistleblower protection bill by Assemblymember Susan Eggman. The bill was signed and passed, though Daphne remarked that the finished bill was significantly changed from the original version. The original version of the bill had aimed to provide whistleblower protections to all independent contractors in "watchdog" roles. In the final version, AB 333 extends the protections specifically to mental health Patients' Rights Advocates who are independent contractors or employees of contracted organizations.

The bill establishes a private right of action for PRAs who have faced retaliation for conducting their job duties.

Justin Boese showed the committee members the updated list of AB 2316 PRA training verification forms, which it is the committee's duty to receive and review. Mike Phillips requested that Justin create a master list so that the committee can see all the forms received to date. Justin will be creating this master list as an excel sheet.

Daphne told the committee that she had an appointment with Assemblymember Susan Eggman's staff to discuss next steps. With AB 2316 and AB 333 both passed, the committee has implemented two of the three recommendations made in the PRC's white paper on Patients' Rights Advocates. The last is to do something regarding a PRA staffing ratio. Daphne said that actually establishing a required ratio wouldn't happen due to the costs involved, but perhaps they could do a study on PRA staffing issues that could encourage some improvement at the county level.

### **Discussion: San Joaquin Sheriff Mental Health Presentation Materials**

The committee members discussed the materials included in the packet for discussion, which included the San Joaquin Sherriff Mental Health Presentation and the Orange County presentation on Patients' Rights in the OC jails. Daphne reminded members that at the June meeting, the committee was told that Orange County has decided to contract out their patients' rights advocacy services. Mike commented that they modeled the RFP after San Diego's system, and also observed that there had been a lot of friction regarding the Orange County patients' rights office's work in the county jails.

Prior to the meeting, Justin sent out a report from Disability Rights California (DRC), which detailed the resolution of their suit against Sacramento County over mental health services and patients' rights in the county jail. Hector Ramirez offered to invite Curt Child, the Director of Legislation at DRC, to provide an update to the committee on their legislative priorities.

### **Question and Answer with Consumer Self Help Center**

George Galas from the Consumer Self Help Center presented to the committee on their patients' rights advocacy work in the Sacramento County jail. He began with some startling figures: more than 50% of people in jails have symptoms of mental illness, and over 450,000 Americans with mental illness are incarcerated. George said that most jails are not equipped to provide adequate mental health services, and that there is a need for more community programs that can help maintain the social support which is crucial for recovery. He also stressed the importance of diversion programs, and the need to reform laws that are outdated and inadequate. There are many barriers to

accessing care and diagnosis before and during incarceration, and better outpatient treatment and screening is needed.

George spoke about the grievance process, which he said needs improvement. Grievances are a way for those who feel their rights have been violated to be heard and seek solutions. He said that grievances are not necessarily a bad thing; they are a way to bring up problems that can be solved. Unfortunately, staff are not well-trained to receive grievances and write responses. Staff need to be trained using examples and scenarios, in a way that strips the emotional overlay of the situation away to focus on the specific issues of the grievance and how problems can be solved. Furthermore, facilities need to act on trends that are identified through the grievance process. A good grievance response shows that a patients' concerns are thoughtfully and fully addressed. A good policy will have clear deadlines, avenues for appeal, and clear instructions for both inmates and staff.

According to George, there are ten times more people with severe mental illness in jails and prisons than in state hospitals. He said that besides access to PRAs and resources to writing grievances for inmates, there are other things that would improve patients' rights and mental health services in jails, such as discharge planning, timely medication, more "out of cell" time. Catherine Moore asked George how he would change the grievance process. He answered that there should be more collaboration between PRAs and the jail staff and commander to facilitate PRAs being able to come in and collect grievances from inmates. Daphne asked whether Consumer Self Help Center operated in jails in Yolo County, and George answered that they are currently only in the Sacramento County psych ward.

## **Survey Development**

The committee moved on to discuss the development of a survey of county behavioral health boards regarding patients' rights in jails. Susan Wilson brought up the possibility of partnering with the data notebook project. Jane commented that there is a need for information regarding diversion, as well as outcomes data. Mike told the committee that the San Diego Public Defender's Office has created a "Defense Transition Unit" that works to divert people with mental illness out of jail and into community treatment. He suggested that they could be invited to present at the January meeting, since the meeting will be in San Diego.

Daphne agreed that partnering with the data notebook could be easier than the committee trying to do a survey or report on their own, and suggested creating a subgroup to develop questions. Susan suggested starting a conversation regarding the data notebook in January, and maybe having PRC members visit a performance outcomes meeting.

Some topics for survey questions discussed by the committee included items regarding diversion, crisis intervention, PRA positions/FTEs, intake screening, access to services, grievance procedures, out of cell time, and the use of solitary confinement. Jane commented that the survey should be focused on specific goals, and that the questions need to be things that the behavioral health boards will be able to answer.

### **Planning for the October Meeting**

The committee decided to have a call with a subgroup of committee members to begin brainstorming some goals and questions for the survey before the January meeting. Justin will compile the ideas for the committee to review and discuss. Mike offered to reach out to the San Diego Public Defender's Office to see if they can come present on the Defense Transition Unit. Justin will follow up on these items.

**The meeting adjourned at 12:30 pm.**

**California Behavioral Health Planning Council**  
**Patients' Rights Committee**  
Wednesday, January 15, 2020

**Agenda Item:** Updates: AB 2316

**Background/Description**

**AB 2316:** In 2018, the Patients' Rights Committee co-sponsored AB 2316, authored by Assemblymember Susan Eggman. The bill passed and was signed into law in August 2018. AB 2316 requires the California Office of Patients' Rights (COPR) to make training materials for county PRAs available for all PRAs at any time online. It also requires counties to verify that newly hired PRAs review these materials within 90 days of being hired, and to keep a copy of that verification and send a copy to the Patients' Rights Committee (PRC). Committee members will be reviewing the verification forms that the PRC has received to date.

**Enclosures:**

1. List of received AB 2316 PRA training verification forms, by PRA name and county.

**California Behavioral Health Planning Council**  
**Patients' Rights Committee**

AB 2316 PRA Training Verification Forms Received

9.18.19 – 12.13.19

<b><u>Name</u></b>	<b><u>Date</u></b>	<b><u>County</u></b>
Clare Cortright	9.18.19	Sacramento
Kristy Lunardelli	9.23.19	Sacramento
Larena Houser	9.27.29	Sacramento
Shaina Valerio	9.27.19	Sacramento
Stephanie Rodriguez	10.10.19	San Bernardino
Karen Luton	10.16.19	San Diego
Terry (Trixie) Smith	10.18.19	Amador
George John Galas	10.23.19	Sacramento
Jessica Franco	11.13.19	Fresno
Chen Chen	12.6.19	Sacramento

**California Behavioral Health Planning Council**  
**Patients' Rights Committee**  
Wednesday, January 15, 2020

**Agenda Item:** Presentation: San Diego Public Defender - Defense Transition Unit (DTU)

**How This Agenda Item Relates to Council Mission**

*To review, evaluate and advocate for an accessible and effective behavioral health system.*

This agenda item provides the Council members with information regarding mental health and patients' rights in California jails, which affects many people with mental illness. This will facilitate the Council members in evaluating what kind of advocacy may be necessary to protect the rights of mental health consumers in county jails and ensure that they receive adequate care.

**Background/Description:**

The Defense Transition Unit of the San Diego Public Defender's Office was formed to connect clients to professionals that can evaluate their mental health needs soon after being charged, with the goal of getting clients into treatment. Neil Besse, who heads the unit, will give a presentation on the work of the unit and any areas of concern they have identified.

**Enclosures:**

Please contact Justin Boese at [Justin.boese@cbhpc.dhcs.ca.gov](mailto:Justin.boese@cbhpc.dhcs.ca.gov) for electronic copies of the enclosed materials.

# Public Defender Defense Transition Unit

Neil A. Besse  
Deputy Public Defender

# The Issue

**How to respond  
when mental health mismanagement  
becomes a crime for the afflicted?**

# What We Don't Want

- Client in custody, competent, clean and sober, medicated, motivated
- Client released without workable plan
- Client decompensates
- Client reoffends
- Repeat above. SSI terminates. Housing disappears. Criminal record grows.

# Jail Makes Things Difficult

- SSI suspends 30 days after conviction and terminates after a year
- Different housing authorities = different criminal record exclusions
- Housing vouchers require SS card
- Outpatient services require BHA

# How we got here

- Time waivers and 'psych evals'
- Attorney placement efforts – hit or miss; maybe family support, maybe not
- Probation – too late in the process
- Behavioral Health Court – good for the few
- Sheriff psychiatric transfers -- 5150

## DTU - What it is:

- Centered around licensed mental health clinicians
- Targets “MH management” situations
- Referrals come directly from attorneys
- Referrals come ASAP
- All within the attorney-client privilege
- We are countywide! All branches, treatment and jails

# DTU Implementation

- Referrals are easy for attys to generate
- CERNER on clinicians' desktops
- Falls within atty-client privilege
- We do not write full evals; act as reporter, advisor, liaison to treatment
- 5 working days for feedback (diagnosis and treatment plan)

# Goals

- **Efficient use of time in custody; avoid time waivers**
- **Let lawyers be lawyers**
- **Don't sentence to a prison term just to get services**
- **Client does not 'hit the street'**

# And More Goals

- **Good program interface**
- **Treatment plans establish a baseline for client**
- **Gather statistics / identify treatment gaps**

# What we expected: Volume is high

- 910 referrals first year
- 1341 our third year
- 5-10/week/clinician; caseloads >100
- Majority are homeless
- 1/10 are ACT appropriate (120/year)

# What else we have found?

- Little dispute about nature of the case
- Judges just ‘want a plan’
- Myths and Assumptions persist
- We were not communicating, and speak different languages anyway
- Clinicians serve educational function

# What we have found - Assumptions and misinformation

- ‘accepted’ to a ‘program’
- ‘residential SMI’ = nonexistent
- ‘Locked facility’ means the jail
- Most things conservator-related

# Closing the Communication Gap

- **The continuum of Behavioral Health providers**
- **AND**
  - RTPs
  - Probation's BHSU
  - Behavioral Health Court
  - Behavioral Health Oversight and Treatment Court
  - PERT
  - Parole
  - County Mental Health / Emergency Psych Unit

## . . . And Closing

- Conservator
- Court's Forensic Evaluation Unit
- Public Defender's retained experts
- Probation's CTC (AB109)
- Jail clinicians and PSU
- JBCT
- Regional Center
- . . . . And more . . . .

. . . And helping to Implement

- **Additional Sheriff discharge planning**
- **Whole Person Wellness**
- **Homeless Management Information System/Coordinated Entry System**
- **Progress (Sheriff)**
- **STAR (Probation)**

# Judicial Expectations and Applying Legal Leverage

- **Housing (immediate or indirect)**
- **ACT level care and Case Management**
- **Care for the Co-Occurring**
- **Ability to Supervise**
- **Connections to Benefit Assistance**

# Work to Be Done: Housing

- **Capacity**
- **Navigators**
- **Systemic Obstacles**

# Work to be done: Co-Occurring

- Those with twice the need often get half the services
- Help is (slowly) on the way:  
DMC-ODS

# Looking Ahead: The Special Need for Forensic ACT

- **Most acute probationers still fall through**
- **How to best assess?**
- **How to avoid capacity issues?**
- **What is the curriculum? Who decides?**

# Challenge: Emerging Illness among Younger Clients

- **Parents call PERT, get arrest and SAO**
- **Family dynamics and elder abuse**
- **No SSI in place**
- **Not yet ACT level**
- **Pivotal time for client, but hard to reach**

# Challenge: The co-occurring 'nuisance' offender

- Compressed misdemeanor timetable
- Lack of supervision
- The right to be homeless
- **Drugs (methamphetamine) disguise as SMI.**

# Food for thought:

- **Priority for criminal minded?**
- **What is in a client's best interest?**
- **Jail as reset button – does it work?**
- **What's the price of success?**

**Thank you.**

**Neil Besse  
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**California Behavioral Health Planning Council  
Patients' Rights Committee**

Wednesday, January 15, 2020

**Agenda Item:** Survey Development

**How This Agenda Item Relates to Council Mission**

*To review, evaluate and advocate for an accessible and effective behavioral health system.*

This agenda item will help Council members in evaluating the state of patients' rights in California counties, particularly regarding patients' rights in county jails.

**Background/Description:**

At the June 2019 PRC Meeting, the committee decided to develop a survey to gather more information about patients' rights in county jails, as well as other potential topics. Since there are significant barriers to surveying the county jails themselves, the intended target population for the survey would be the local behavioral health boards and commission. Committee members will be discussing and developing questions for the survey during this time.