

California Behavioral Health Planning Council

Patients' Rights Committee Agenda

Wednesday, October 17, 2018

Lake Natoma Inn

702 Gold Lake Drive, Folsom, CA 95630

Natoma Room

10:30am to 12:30pm

10:30am	Welcome and Introductions <i>Daphne Shaw, Chairperson</i>	
10:40am	Approve June Meeting Minutes <i>Daphne Shaw and All</i>	Tab A
10:45am	Update on PRA Legislation <i>Daphne Shaw and Samuel Jain</i>	Tab B
11:00am	Discuss Implementation of AB 2316 <i>Ann Coller and Michele Mudgett</i>	Tab C
12:00am	Plan for Next Meeting <i>Daphne Shaw and All</i>	Tab D
12:25am	Public Comment	
12:30am	Adjourn	

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

Patients' Rights Committee Members

Chairperson: Daphne Shaw

Members: Walter Shwe, Darlene Prettyman, Catherine Moore, Richard Krzyzanowski, Samuel Jain

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
Wednesday, October 17, 2018

Agenda Item: Review and approve meeting minutes from June 20, 2018

Enclosures: Draft of PRC meeting minutes from June 20, 2018

Background/Description:

Enclosed is a draft of the meeting minutes from June 20, 2018, prepared by Justin Boese. Committee members will have the opportunity to ask questions, request edits, and provide other feedback

Patients' Rights Committee

Meeting Notes

Quarterly Meeting – June 20, 2018

10:30 am – 12:30 pm

Committee Members Present:

Daphne Shaw, Chair

Carmen Lee, Darlene Prettyman, Catherine Moore, Richard Krzyzanowski, Samuel Jain

Staff Present:

Justin Boese

Others Present:

Kellen Russoniello

Welcome & Introduction:

Daphne Shaw welcomed all committee members. A quorum was reached.

Review and Approve Minutes:

The meeting minutes from April 18th were approved. Motion by Catherine Moore, seconded by Darlene Prettyman.

PRA Paper and Legislation Update:

Daphne Shaw informed the committee on the progress of AB 2316, the Patients' Rights Advocate Training bill, which was heard in the Senate Health Committee the week before the meeting. Daphne and Samuel Jain both testified at the hearing, and the bill passed out of the committee.

The second bill, AB 2317, has been changed considerably. While Assemblymember Susan Eggman wanted to expand the whistleblower protections to all state and county contractors in watchdog roles, that version of the bill was put into the suspense file when it reached the Appropriations committee because of the expected costs required for the Labor Commission to handle the increase in potential claims. In light of this, Assemblymember Eggman scaled the bill back to the original scope, which only extends whistleblower protections to county patients' rights advocates who are independent contractors or employees of contracted employees. Subsequently, the bill was pulled out of suspense and is continuing through the state Senate.

Guest Speaker: Kellen Russoniello, ACLU of San Diego and Imperial Counties

At the April 2018 Patients' Rights Committee (PRC) quarterly meeting, the PRC decided that the next issue the committee will focus on is patients' rights in county jails. The ACLU of San Diego and Imperial Counties recently published a report titled "The Turning Point: Getting on the Road to Ending the Over-Incarceration of People with Mental Health and Substance Use Needs." Kellen Russoniello, the author of the report, presented to the PRC on some of their findings. Below is a summary of some of the key points from Kellen's presentation:

- **A Disturbing Trend:** People with mental health and substance use (MH/SU) needs are dramatically over represented in our criminal justice systems.
 - **Nationwide:**
 - 2/3 of people in jail have mental health needs.
 - More than 2/3 have substance use needs.
 - 1/3 have co-occurring disorders.
 - **In San Diego County**
 - 40% of people in jail have mental health needs.
 - 75% of people arrested in San Diego County tested positive for an illicit substance.
 - **Law Enforcement is poorly equipped to respond**
 - Police are twice as likely to arrest someone who appears to have MH/SU needs.
 - Mental health related calls for services in San Diego County nearly doubled between 2009 and 2015.
- **The ACLU of San Diego has more than 40 recommendations in 7 categories that they detail in their report. The 7 categories are as follows:**
 - 1) Ensure access to quality community-based mental health and substance use services.
 - 2) Establish comprehensive health-based responses to crises to reduce law enforcement contact.
 - 3) Quickly divert people living with MH/SU needs out of detention.
 - 4) Improve court processing and prevent overuse of sanctions to reduce time in jails and prisons and recidivism risk.
 - 5) Improve successful transition from incarceration to the community.
 - 6) Reduce reincarcerations for violations of supervision requirements.
 - 7) Improve functioning across the criminal justice system.
- **Building on local foundations including local programs such as:**
 - Psychiatric Emergency Response Teams (PERT)
 - In-Home Outreach Teams (IHOT)
 - City Attorney's San Diego Misdemeanants at Risk Track (SMART) Program.

- **New initiatives can be leveraged**
 - Drug Medi-Cal Expansion
 - Project One-For-All
- **Next Steps**
 - **Support State Bills and Direct Lobbying Resources to Support:**
 - SB 944 – Authorizes Community Paramedicine Programs with State and local oversight.
 - SB 10 – Reforms pretrial to ensure people are not held in detention because they can't afford bail.
 - SB 906 – Creates a statewide peer support specialist certification program.
 - **Support Local Efforts to Implement:**
 - Non-law enforcement-led mobile crisis response teams
 - Mental health/ substance-use urgent care centers
 - Robust pretrial services and quick diversion to services
 - Permanent supportive housing

After the presentation, Kellen Russoniello answered questions and engaged in discussion with the PRC members. Samuel Jain inquired about potential legislation and other advocacy work. Kellen said that there was a lot of potential advocacy work to be done concerning competency restoration. He noted that there has been legislation to reduce the timeframe for competency restoration from 3 years to 2 years, and also said that continued advocacy to get funding for community-based competency restoration was important. Samuel brought up a couple other ideas he felt could be a basis for a bill, such as health navigators to ensure that people with MH/SU needs or who are homeless have a “warm hand-off” to services upon release. Daphne asked if there was work being done to work on increasing diversion before people have to plead guilty. Kellen explained that a lot of counties require that someone plead guilty as a condition of participating in a drug court, which diverts people from jail but leaves them with a criminal record. He said that AB 1820 would create an option for pretrial, pre-plea diversion for up to 2 years of treatment.

Discussion of Next Steps:

The PRC members went on to discuss next steps for the committee and plans for future meetings. Daphne encouraged everyone to read the reports on issues in county jails that were included in the June meeting packet before the next meeting so that the committee can discuss them, as well as the PowerPoint from Samuel Jain and Rebecca Cervenak's Patients' Rights Advocates Training (PRAT) presentation on patients' rights in county jails.

Samuel updated the committee in on a discussion he had with Michelle Mudgett, the Director of the California Office of Patients' Rights (COPR), and Catherine Blakemore,

the Executive Director of Disability Rights California concerning the contract between DSH, DHCS, and COPR. Catherine Blakemore does not believe that DSH/DHCS will give COPR any further funding to provide support for county PRAs, and suggested legislation as a possible solution. Daphne emphasized that currently, DHCS does not contribute any funds to the contract at all; it all comes from DSH.

Discussion pivoted to the topic of patients' rights in county jails. Catherine commented that the presentation by Kellen Russoniello highlighted nodes where interventions could take place. She said that in particular, the first two categories of the ACLU's recommendations would be important to focus on, as well as discharge planning. Daphne agreed, but also said that the PRC needs to be aware of what the role of the committee is and where they can have an impact.

Richard Krzyzanowski commented that he was very interested in getting information from PRA's currently working in county jails. He suggested creating a poll or survey to see what they are able to accomplish, what barriers they face in their work, and what some best practices might be. Daphne agreed that it would be beneficial to learn more about PRAs in counties with mental health units in their jails, and to consider doing such a survey.

The meeting adjourned at 12:30 pm.

California Behavioral Health Planning Council
Patients' Rights Committee
Wednesday, October 17, 2018

Agenda Item: Update on PRA Legislation

Enclosures: AB 2317 Veto Message

Background/Description:

In 2018, the Patients' Rights Committee co-sponsored two bills authored by Assemblymember Susan Eggman to address some of the recommendations included in the committee's white paper on county PRA's in California. The two bills were:

- 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 PRC. AB 2316 was signed by the governor and was chaptered on August 28th, 2018.
- AB 2317: Would have extended whistleblower protections to all county PRAs, which would protect PRAs who are independent contractors or employees of a contracted organization, who are not currently protected from employment retaliation by whistleblower protections. Unfortunately, AB 2317 was vetoed by Governor Brown on September 19th, 2018. Enclosed is his veto message.



OFFICE OF THE GOVERNOR

SEP 19 2018

To the Members of the California State Assembly:

I am returning Assembly Bill 2317 without my signature.

This bill would extend whistleblower protections afforded to employees to patients' rights advocates regardless of whether they are an employee, an independent contractor, or a business entity.

While I am supportive of the larger policy goal of this bill, to protect the work of patient rights advocates, this is not the appropriate framework. The bill would expand the Labor Commissioner's jurisdiction beyond the typical employer-employee relationship into larger contract disputes between independent contractors and local governments. I do not believe such a broad change in law is warranted when there is limited evidence of a problem.

Sincerely,


Edmund G. Brown Jr.

California Behavioral Health Planning Council
Patients' Rights Committee
Wednesday, October 17, 2018

Agenda Item: Discuss Implementation of AB 2316

Enclosures: Assembly Bill 2316

Background/Description:

The governor signed Assembly Bill 2316 on August 28th, 2018. The bill requires the nonprofit entity contracted to provide protection and advocacy services to persons with mental disabilities in California (currently the California Office of Patients' Rights (COPR), an office within Disability Rights California) to make patients' rights advocacy training materials readily accessible to all county patients' rights advocates online. The bill additionally requires that counties verify that its patients' rights advocates (PRAs) review the training materials within 90 days of hire, and for counties to keep a record of that verification and send a copy to the Patients' Rights Committee.

Enclosed is the text of AB 2316, as chaptered. The bill amended Section 5370.2, and added Section 5524, to the Welfare and Institutions Code. Michele Mudgett, the director of COPR, and Ann Coller, a patients' rights specialists at COPR, will be discussing the implementation of AB 2316 with the Patients' Rights Committee.

Enclosure Link:

http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2316

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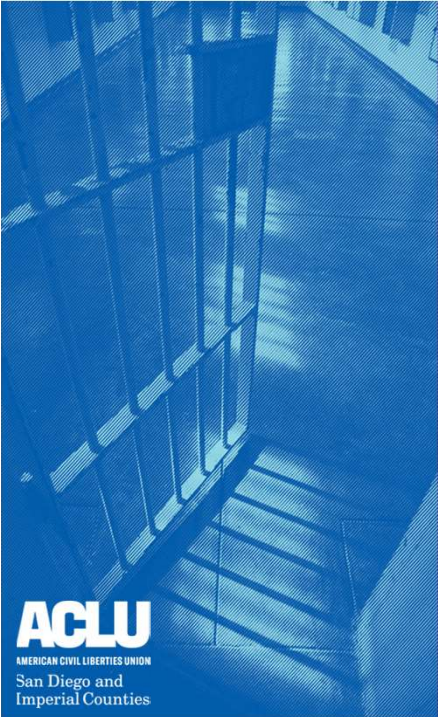
Agenda Item: Plan for Next Meeting

Enclosures: See below

Background/Description:

At the PRC meeting on April 18, 2018, the committee voted to select patients' rights in county jails as their next area of focus. Further information on this subject was shared at the June 2018 meeting. The following document has been supplied to inform the committee's discussion of what issues to address within this topic:

1. PowerPoint slides from Kellen Russoniello's presentation to the PRC on June 20th, 2018. The presentation includes key recommendations from "The Turning Point: Getting on the Road to Ending the Over-Incarceration of People Living with Mental Health and Substance Use Needs," a report by the ACLU of San Diego and Imperial Counties.



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**GETTING ON THE ROAD TO ENDING
THE OVER-INCARCERATION OF
PEOPLE WITH MENTAL HEALTH
AND SUBSTANCE USE NEEDS**

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AMERICAN CIVIL LIBERTIES UNION
San Diego and
Imperial Counties

**ACLU of San Diego & Imperial Counties
Summer Legislative Briefing**

Presented by Kellen Russoniello
Staff Attorney, ACLU SDIC
June 22, 2018



**For more than 80 years, the nonpartisan ACLU of San Diego and Imperial
Counties has been fighting for individual rights and fundamental freedoms
for all through litigation, legislation and community action.**

WELCOME


ACLU



A DISTURBING TREND:
People with mental health and substance use (MH/SU) needs are dramatically over-represented in our criminal justice systems.



Nationwide	In San Diego County
<ul style="list-style-type: none"> • 2/3 of people in jail have mental health needs (63% of men; 75% of women) • More than 2/3 have substance use needs • 1/3 have co-occurring disorders 	<ul style="list-style-type: none"> • 40% of people in jail have mental health needs (according to the San Diego Sheriff's Department) • 75% of people arrested in San Diego County tested positive for an illicit substance

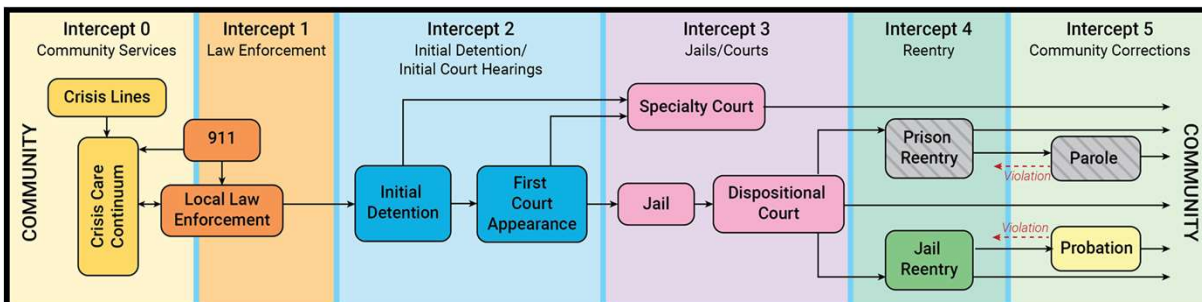


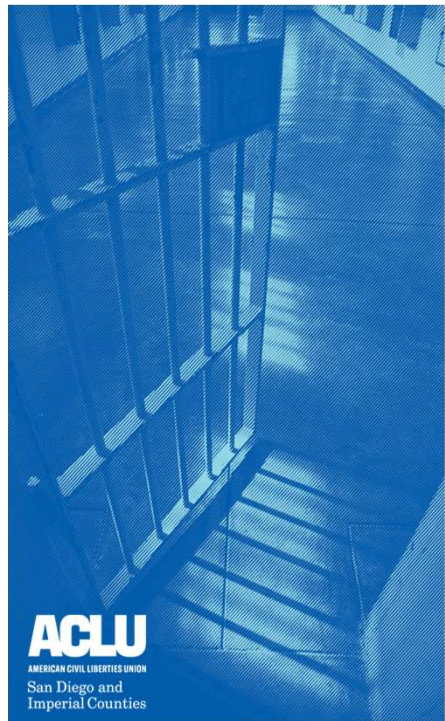
Law Enforcement Is Poorly Equipped To Respond

- Police are nearly twice as likely to arrest someone if s/he appears to have MH/SU needs, even for similar alleged offenses
- Up to half of all victims of police shootings nationwide are people living with MH/SU needs
- Mental health-related calls for services nearly doubled in San Diego County between 2009 and 2015

Sequential Intercept Mapping

The Sequential Intercept Mapping Model is a tool that is widely used to identify interventions that reduce the number of individuals living with mental health needs across the stages of the criminal justice system.

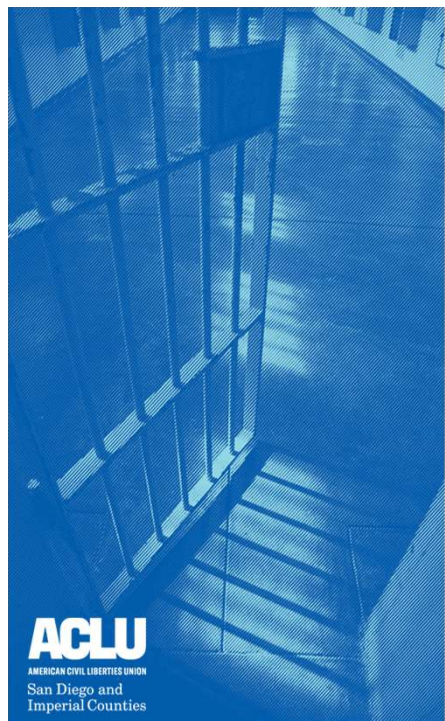




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More Than 40 Recommendations In 7 Categories:

1. Ensure access to quality community-based mental health and substance use services
2. Establish comprehensive health-based responses to crises to reduce law enforcement contact
3. Quickly divert people living with MH/SU needs out of detention



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More Than 40 Recommendations In 7 Categories:

4. Improve court processing and prevent overuse of sanctions to reduce time in jails and prisons and recidivism risk
5. Improve successful transition from incarceration to the community
6. Reduce reincarcerations for violations of supervision requirements
7. Improve functioning across the criminal justice system

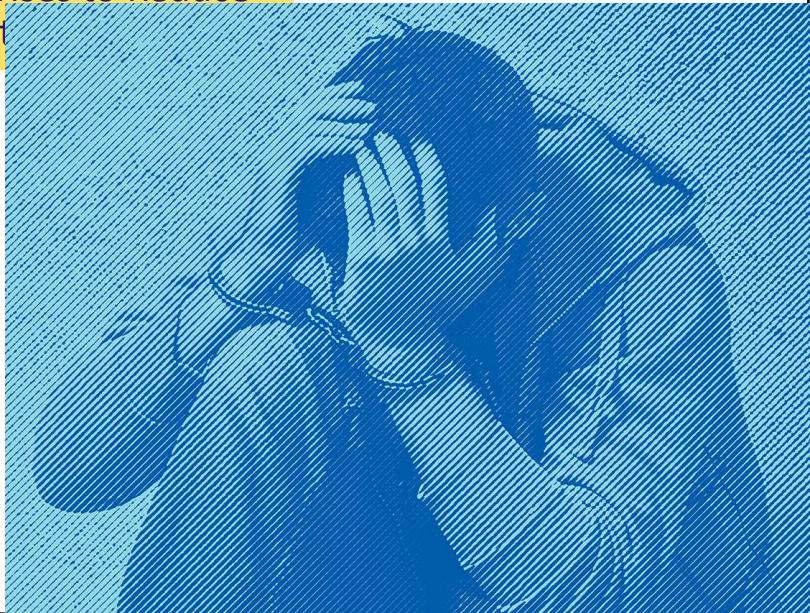
0. Ensure Access to Quality Community-Based Mental Health and Substance Use Services

- Establish a peer support specialist certification program
- Expand Assertive Community Treatment Teams/Full Service Partnerships
- Establish non-law enforcement mobile outreach teams



1. Establish Comprehensive Health-Based Responses to Crises to Reduce Law Enforcement Contact

- Require emergency dispatchers to receive training to recognize calls involving MH/SU-related crises
- Authorize paramedics to transport individuals experiencing MH/SU-related crises to community-based facilities
- Incentivize non-law enforcement crisis response teams



2. Quickly Divert People Living with MH/SU Needs Out of Detention

- Establish uniform standards for, and require MH/SU needs screening at, jail intake
- Reform money bail and pretrial decision-making



3. Improve Court Processing and Prevent Overuse of Sanctions to Reduce Time in Jails and Prisons and Recidivism Risk

- Expand access to community-based competency restoration
- Shorten the timeframe for competency restoration



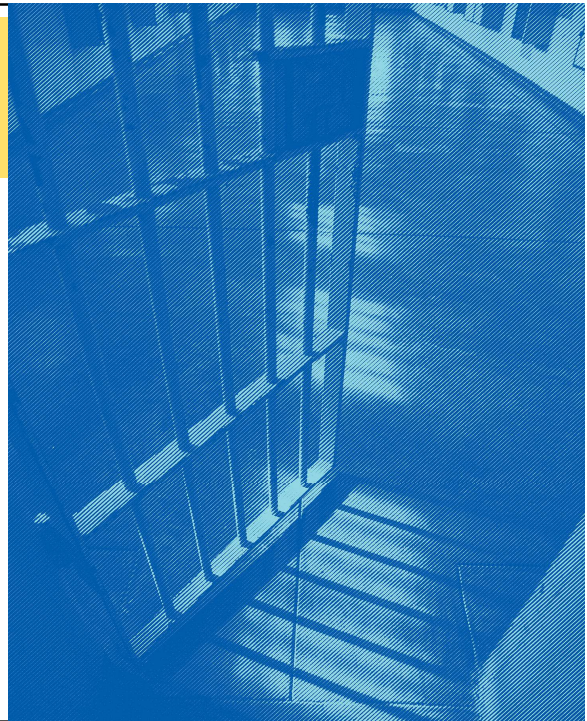
4. Improve Successful Transition from Incarceration to the Community

- Increase the ability of individuals with past criminal justice-involvement to provide peer support and in-reach services
- Connect people with health navigators prior to release



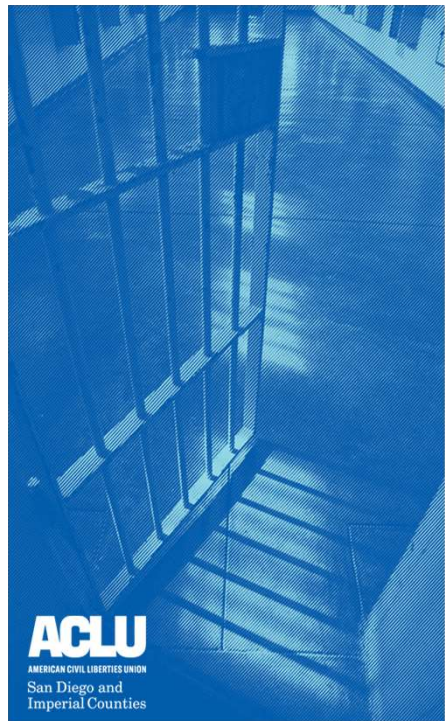
5. Reduce Reincarcerations for Violations of Supervision Requirements

- Tailor supervision conditions to the needs and capabilities of the individual
- Expand Forensic Assertive Community Treatment teams



6. Improve Functioning Across the Criminal Justice System

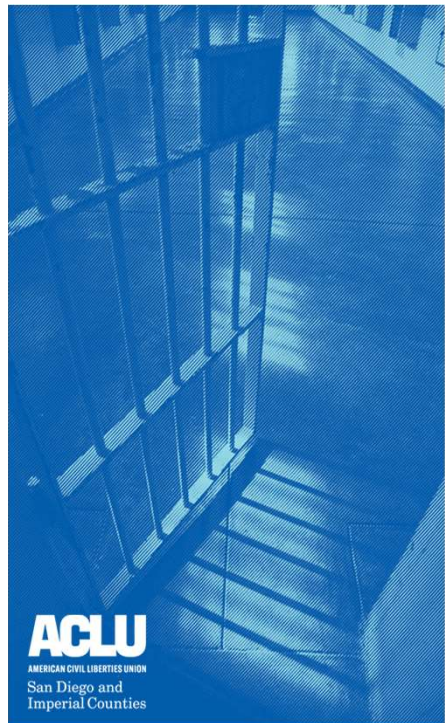
- Collect more and better data to improve baseline knowledge
- Require reinvestments of savings from diversion to ensure longevity of reform



BUILDING ON LOCAL FOUNDATION

San Diego Has Several Exemplary Programs:

- Project In-Reach
- Project 25
- Resource Access Program (RAP)
- Psychiatric Emergency Response Teams (PERT)
- In-Home Outreach Teams (IHOT)
- City Attorney's San Diego Misdemeanants at Risk Track (SMART) Program



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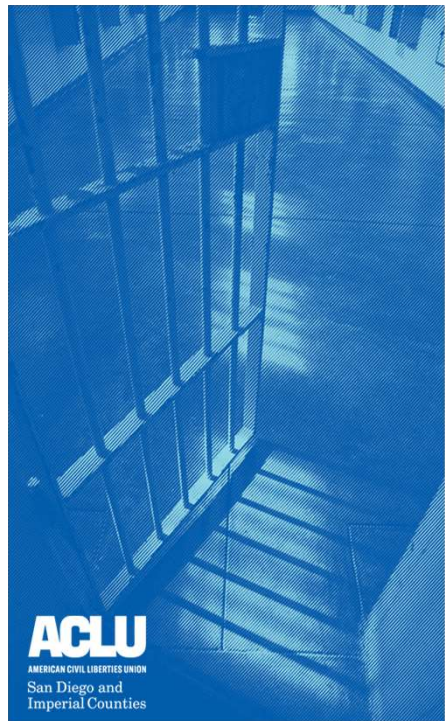
BUILDING ON LOCAL FOUNDATION

New Initiatives Can Be Leveraged:

Drug Medi-Cal expansion

Project One-For-All

THE
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Imperial Counties

NEXT STEPS

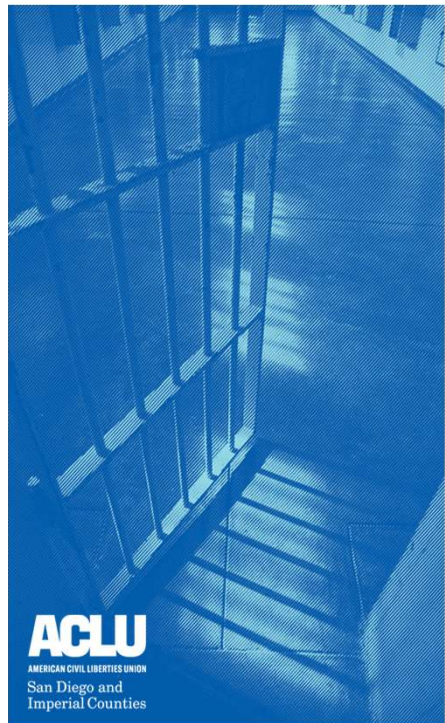
Support State Bills And Direct Lobbying Resources To Support:

SB 944 - Authorizes community paramedicine programs with state and local oversight

SB 10 - Reforms pretrial to ensure people are not held in detention because they can't afford bail

SB 906 - Creates a statewide peer support specialist certification program

THE
FINISH
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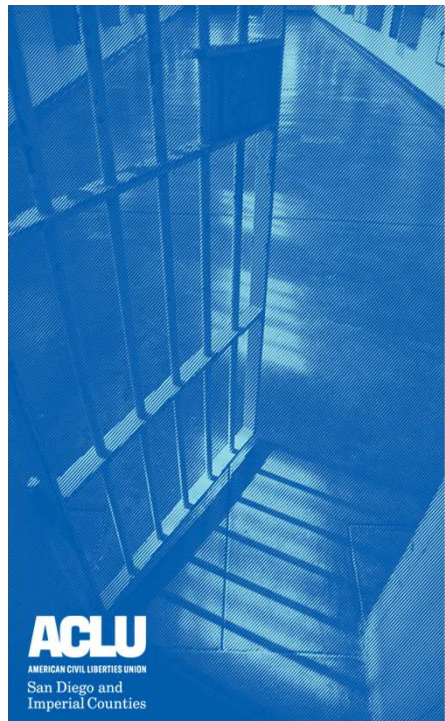


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NEXT STEPS

Support Local Efforts To Implement:

- Non-law enforcement-led mobile crisis response teams
- Mental health/substance use urgent care centers
- Robust pretrial services and quick diversion to services
- Permanent supportive housing

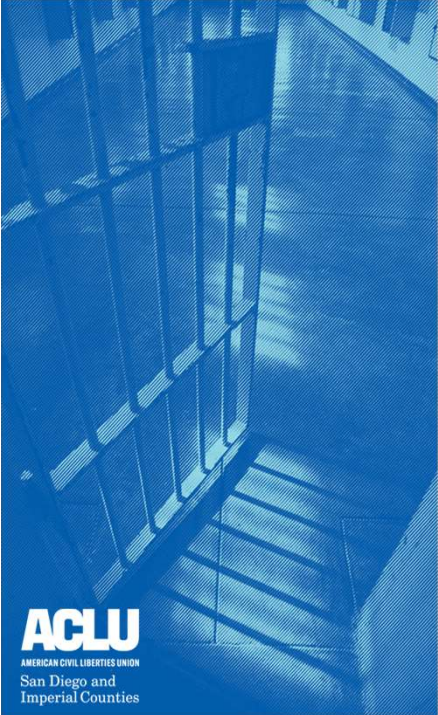


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ACLU SDIC is a resource:

- Model policies, resolutions, and ordinances
- Research

Please reach out to us for support!



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THANK YOU.

QUESTIONS?

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