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**HUMAN RIGHTS AUTHORITY - EGYPTIAN REGION**  
**REPORT OF FINDINGS**

**Case # 13-110-9041**  
**Chester Mental Health Center**

**INTRODUCTION**

The Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, opened an investigation after receiving a complaint of possible rights violations at Chester Mental Health Center. The complaint alleged the following:

**A recipient is not being served in the least restrictive environment.**

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Chester Mental Health Center is a state-operated mental health facility serving approximately 240 recipients. It is considered to be the most secure and restrictive state-operated mental health facility in the state.

To investigate the allegations, HRA team members interviewed the recipient and reviewed documentation that is pertinent to the investigation. Such documentation included recipient records, with consent.

**COMPLAINT STATEMENT**

The recipient claimed that he was not being treated in the least restrictive environment possibly because he was committed to Chester after being found unfit to stand trial in 2011, but the charges were dropped in 2012. The complaint was filed in 2013, as the recipient continued to be treated at Chester.

**FINDINGS (including record review, mandates, and conclusion)**

With the proper consent, the HRA reviewed records and documents related to the complaints alleged in this case.

**A. Recipient Record Review**

The circuit court's "Order on Fitness" includes a record that the recipient was charged with three counts of aggravated battery on 6/22/10, and that on 2/18/11, the recipient was found unfit to stand trial. The recipient's initial psychiatric evaluation indicates that he was initially sent to a less secure mental health facility than Chester to attain fitness for trial, but that during two months, he exhibited twenty-four instances of threatening behavior or unprovoked violence towards both staff and peers, including punching a female patient numerous times in the face, resulting in injuries for the female patient. According to his 3-day Treatment Plan, the recipient was transferred to the more secure Chester facility on 7/29/11.

While at Chester, the recipient continued to exhibit a pattern of aggressive behavior as well as sexually inappropriate behavior. In his first week at Chester, his Treatment Plan dated 8/25/11 indicates that he required 10 doses of emergency enforced medications, and in the next two and a half weeks, another 8 doses of emergency medications, plus four-point restraints on 8/10/11 for his threats to harm staff. The 8/25/11 Treatment Plan indicates that the recipient was verbally requesting to be released on "almost a daily basis." The 8/25/11 Treatment Plan also states that the recipient had voiced fears that he would never leave Chester. The same 8/25/11 Treatment Plan outlines the recipient's criteria for separation (to return to court) as being that he must understand what was going on around him, assist in his own defense, and demonstrate a significant reduction in aggressive behavior.

On 5/9/12, as indicated by the court order on fitness, the charges against the recipient were dropped. The recipient applied for voluntary admission to Chester on 6/6/12 and reaffirmed his voluntary status on 12/31/12, 4/26/13, and 10/15/13.

The recipient's 7/23/13 Treatment Plan indicates that he had attacked a female staff member on 7/4/13, causing serious injury. The progress notes indicate that on 7/25/13, he still did not display any remorse for that attack. His criteria for separation (to be recommended for transfer to a less secure facility) in each of the Treatment Plans since his voluntary admission were that he demonstrate an ability to inhibit violent impulses, express a genuine desire to transfer, and be cooperative in making plans, taking medication, and participating in activities.

The recipient's Treatment Plan dated 11/13/13 indicates that the recipient had been doing "good," had been moved to the least secure standing that Chester has (green level), and was regularly attending off-unit activities. The recipient never filed a written request for discharge, nor did he voice objections to any part of the Treatment Plans.

## **B. Policy Review**

The HRA examined policies pertinent to the allegations. Chester Mental Health Center's "Patient Rights" policy guarantees the right to adequate and humane care and services in the least restrictive environment, pursuant to an individual treatment plan. This right is repeated in the Patient Guide, within the "Rights of Recipients" section, stating, "You are entitled to adequate and humane care and services in the least restrictive environment and to an individual service plan."

The "Patient Rights" policy also indicates that patients have the right to refuse medication, and that the restriction of any of those rights (including that of adequate care in the least restrictive environment) may only take place based on an assessment of whether the patient or situation is affecting the safety of the patient or others.

The "Treatment Plan" policy lists certain things which must be included in a given treatment plan, including the criteria of separation. These are defined as "the criteria that must be met before the patient can be transferred to another facility or be returned to court."

Chester's "Continuity of Care" Manual includes a section entitled "Transfer Recommendation of Behavior Management Patients." This states a policy which dictates that the patient's treatment team must "evaluate on an ongoing basis the patient's continuing need for a maximum security environment," considering the Mental Health and Developmental Disabilities Code mandate on treatment in the least restrictive manner appropriate for that patient.

The form for voluntary admission to Chester indicates that the signing employee has explained the following rights to the applicant:

*You have the right to request discharge from this center. Your request must be in writing. After you give your request, the center must discharge you at the earliest appropriate time. This time may never exceed 5 days, excluding Saturdays, Sundays, and holidays, unless it is expected that you are likely to inflict serious physical harm on yourself or others in the near future. If the center director believes you are likely to harm yourself or others, he/she must file a petition and 2 certificates with the court within the same 5-day period. You will then have a hearing in court and the court will determine if you must remain at the center.*

### **C. Mandates**

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) guarantees the right to:

*...adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient. ...In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. The recipient's preferences regarding emergency interventions...shall be noted in the recipient's treatment plan.... If the services include the administration of electroconvulsive therapy or psychotropic medication, the physician or the physician's designee shall advise the recipient, in writing of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated.*

The Code (405 ILCS 5/3-404) indicates that every sixty days, the facility director must consult with the recipient whether continuing hospitalization and continued treatment are indeed

the desire of the recipient. "A recipient's failure to reaffirm a desire to continue treatment shall constitute notice of his desire to be discharged." Furthermore, the Code (405 ILCS 5/3-402 and 3-403) states the following:

*No physician, qualified examiner, or clinical psychologist shall state to any person that involuntary admission may result if such person does not voluntarily admit himself to a mental health facility unless a physician, qualified examiner, or clinical psychologist who has examined the person is prepared to execute a certificate under Section 3-602 and the person is advised that if he is admitted upon certification, he will be entitled to a court hearing with counsel appointed to represent him at which the State will have to prove that he is subject to involuntary admission.*

*A voluntary recipient shall be allowed to be discharged from the facility at the earliest appropriate time, not to exceed 5 days, excluding Saturdays, Sundays and holidays, after he gives any treatment staff person written notice of his desire to be discharged unless he either withdraws the notice in writing or unless within the 5 day period a petition and 2 certificates conforming to the requirements of paragraph (b) of Section 3-601 and Section 3-602 are filed with the court. Upon receipt of the petition, the court shall order a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, and to be conducted pursuant to Article IX of this Chapter.*

#### **D. Conclusions**

The recipient has voluntary status at Chester, which allows him the right to request transfer at any time. The recipient's continued signed reaffirmation of his desire for treatment and continued hospitalization, his lack of objection to any of his Treatment Plans, and his failure to submit even one written request for transfer would indicate that his placement at Chester is voluntary. Furthermore, his continued violent outbursts, including causing a female staff member serious injury just one month before the date that this complaint was filed would seem to justify the absence of a recommendation for transfer from his caregivers, as the criteria for separation include the recipient's ability to inhibit his violent impulses. When his behavior did become less violent, his status at Chester was amended to less secure, according to the 11/13/13 Treatment Plan. Based on its findings, the HRA finds this complaint **unsubstantiated**.

The HRA takes this opportunity to make the following **suggestion**:

The Treatment Plan from 8/24/11 noted that the recipient was verbally requesting transfer on an almost daily basis. The recipient's ongoing attitude and comments regarding his placement at Chester do seem to indicate a desire to transfer. Staff may want to ensure that they are providing patients expressing a desire to transfer with any help they require in making written requests. Additionally, staff should ensure that they are indeed informing voluntary applicants of their right to be discharged within five days of making a written request to transfer. Under ILCS 5/3-402, staff cannot give recipients the impression that they will just be involuntarily committed if they request discharge; even if staff believe that a physician will execute a certificate in the event that the recipient requests discharge, staff should make every effort to help recipients desiring discharge aware of their right to request discharge in writing, as well as their rights associated with involuntary commitment proceedings:-