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**FOR IMMEDIATE RELEASE**

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**HUMAN RIGHTS AUTHORITY- CHICAGO REGION**

**REPORT 15-030-9002**

**Cermak Health Services of Cook County**

Case Summary: The HRA substantiated the complaint that the facility did not follow Code procedures when a recipient was allegedly physically abused and also when he was not allowed to make phone calls, however it did not substantiate the complaint that the recipient was not allowed to speak with his attorney.

**INTRODUCTION**

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Cermak Health Services of Cook County (Cermak). It was alleged that the facility did not follow Code procedures when a recipient was physically abused, was denied phone calls, and not allowed to speak with his attorney. If substantiated, these actions would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.) and the Administrative Code for County Jail Standards (20 Ill. Admin. Code 701 et seq.).

Cermak Health Services of Cook County is an affiliate of the Cook County Bureau of Health Services and the health care delivery system of the Cook County jail. It provides an array of on-site ambulatory and infirmary clinical services to approximately 105 mental health detainees housed daily in the jail. Cermak's Department of Mental Health Services provides screening and assessment services in the intake department of the Cook County Department of Corrections, infirmary level of acute psychiatric care in the Cermak building, intermediate care in the Residential Treatment Unit for males in Division II and X and for females in Division IV, mental health clinics for the general population, and twenty-four hour crisis assessment services located in the Cermak emergency department. All the clinical and support staff in Cermak are Cook County employees with oversight provided by the Cook County Board.

Cermak Health Services of Cook County is not accredited by the National Commission on Correctional Health Care, although the facility must meet American Correctional Association standards as well as the Illinois Department of Corrections Jail Standards.

To review these complaints, the HRA conducted a site visit and interviewed the First Assistant Executive Director of the Cook County Department of Corrections, the Deputy Director of Risk Management, the Chief Psychologist, the Chair of the Department of

Correctional Health, the Director of Psychiatry, the Interim Site Administrator of Cermak Health Services, the Assistant Executive Director of Cook County Department of Corrections, and the Cook County Superintendent of Cermak Hospital. Relevant hospital policies were reviewed, and records were obtained with the written consent of the recipient.

## COMPLAINT SUMMARY

The complaint alleges that the recipient was physically abused four times by security staff (all staff are named):

1. 1/28/14 An Officer hit the recipient while he was handcuffed.
2. 2/21/14 Recipient was in his cell. An Officer was taking the recipient to court in the morning and he held his arm behind his back and forced him to the floor.
3. 3/1/14 An Officer came into the recipient's cell while he was asleep. The Officer kicked what he thought was the bed but it was the recipient's head.
4. Officer threw a roll of toilet paper at the recipient's head while he was asleep.

The complaint also alleges that the recipient was denied phone calls as well as communication with his attorney.

## FINDINGS

The recipient's clinical record was reviewed for input into the complaints. The record indicates that he was admitted to the Cermak Emergency Department (ED) on 1/16/14 where his Intake Screening was completed. On 1/17/14 the recipient was admitted into the Mental Health Infirmary. The recipient's Intake document states, "Pt is 24 y/o AAM. Charge UUW [unlawful use of a weapon] (2<sup>nd</sup> since 2007). ...Pt has prior history at CCDOC but no record of MH treatment during stay. JDL review yields negative MH treatment for pt. Pt. was escorted throughout Intake process by Sergeant, due to his bizarre presentation/behavior during booking process. Pt. reports mental health history. He reports being diagnosed with 'clinical Depression' and that it's in his family. Pt is Ox4 [oriented to place, time, person, situation]. His mood 'angry' and thought process questionable. He was extremely guarded and defensive when answering questions. Pt. reporting was also vague in quality and routinely refused to elaborate stated often, 'that is not important.' Pt. easily becomes passive with anger, lashing out through his words. He also seems to limit direct eye contact. Pt. did report that he lives with family, has problems with grandfather and biological father- with possible alcohol abuse in home. He shared that he lives in a shelter and has so for at least 3 months. Pt likely has some cognitive needs. Appears easily offended and does not respond well to humor (concrete thinking). Pt. also appears much younger than stated age and perhaps possibly fetal alcohol or some syndrome in history as he complained of problems with joints/facial form. Recommendation: Intake Psychiatrist." The recipient's attending psychiatrist interviewed the recipient the following day and stated, "Chief complaint while being seated for interview, patient noted to be widely smiling without apparent stimuli in room. Patient begins interview stating, 'I am allergic to all foods.'

And requests transfer to [local hospital] 'so I can eat the food there.' Patient reports depressed mood at present and reports suffering from depression for the past four years, though he denies Suicidal Ideation at present. (Reports divorce and multiple family losses that he has been coping with). No changes in sleep, appetite, energy or other depressive symptoms elicited. Also denied H [hallucinations]. He denies AVH [audio visual hallucinations] past or present, and provides commentary, 'reports that he develops hives and constriction in his throat,' and had been on Invega and Zyprexa but discontinued medications due to allergy. Currently is not on medications and sees a psychologist for 'grief' and family related issues. At times, patient is tangential and provides stories that are unclear; for example, describes previously going to college out of state but returned back to Chicago, 'after I was in a fatal car accident.' Patient reports he had been studying engineering and denies that he returned home for psychiatric or medical reasons. He has recently been homeless for at least the past four months, and comments that he has a room at his mother's home, but refuses to stay there." The recipient's Plan is to be maintained on 2North and all medications are deferred. On 4/30/14 the recipient was discharged to a state mental health facility and then returned to Cook County Department of Corrections on 8/25/14.

Progress Notes from 2/11/14 state, "Pt. requesting to speak with this writer for 1:1. Pt states he has not been able to make a phone call for over a month. When asked why he has not been able to make a phone call pt states it is because he does not have money on his books however pt states his family wants to put money on his books. Pt was advised to speak to the social worker/crw [correctional rehabilitation worker] about putting money on his books since mental health staff do not have any control over whether he has money on his books. Pt states he has spoken to the social worker/crw about this and she is supposed to get back to him. Security reports that pt has been informed by both security and social work staff about how to go about putting money on his books however pt does not follow through with the process...."

Progress Notes from 2/27/14 state, "....States he was attacked by an officer on the unit because showering with men is against his beliefs. Patient is requesting 2 biopsies. He needs a cerebral cortex biopsy and has a 'lower mandible root infection due to damage to the veins.' When asked about medications, he states, 'I don't do pharmaceuticals.' States he doesn't want to go divisional housing because people 'don't understand me, it's the 21<sup>st</sup> century but not everyone thinks like that. I wasn't educated like that.' States he might have mild depression related to his situation or possibly related to the death in his family on the 9<sup>th</sup> of October, 2013 [his brother]. He denies the possibility of any other type of mental illness. He denies any thoughts of harming himself and reports that the danger is others picking on him."

Nursing Progress Notes from 2/28/14 state, "...A: Received alert, responsive with no c/o or problems voiced. Assistance from security needed to have pt remove cover from face to identify the patient. Pt stated that he was cold and wanted to be left alone. Mood and affect serious, labile. P: Continue to monitor."

Nursing Progress Notes from 4/02/14 state, "noted by officers at rounds altercation with room mate states was 'holding room mate down, so he won't hit me', no apparent injury noted except a scratch on left outer 5<sup>th</sup> finger, area cleansed and a band aid placed, vital signs..." An Inpatient Progress Note entered on the same day states, "Pt involved in physical altercation with

fellow detainee in his room. 'He just hit me for no reason.' Pt was not the aggressor no visible injuries evident."

The clinical record for this recipient does not show a report of injury on the days referenced in the complaint, however the mental health staff noted in the record one incident when the recipient reported being struck by an officer, and another time being struck by his roommate. There is no corresponding documentation regarding these events. Generally, the recipient is described as calm, quiet, with little interaction with peers or staff although he was alert, responsive and ate and showered appropriately. Nursing Notes generally indicated that the recipient showed no apparent distress, no discomfort, and no complaints. The recipient remained in the mental health infirmary for the duration of his incarceration. In this time he did not receive psychotropic medication at his request, and he never received any emergency or forced medication.

The record contains the inmate's Call Detail Report which lists the 13 phone calls attempted by the inmate from 1/29/14 through 1/19/15. Throughout this time, only two phone calls, made to an attorney on 10/17/14, were completed, both for under a minute and in both instances the caller hung up. There were 11 other attempts made that were recorded "incomplete" including another call made to the recipient's attorney. There is no record of admission phone calls made or attempted on the recipient's two admission dates, 1/16/14 or 8/25/14.

#### HOSPITAL REPRESENTATIVE RESPONSE

Cermak staff were interviewed about the complaints. They were asked if there is policy and procedure for a response to an allegation of an inmate having been struck by an officer or by another inmate. They indicated that there is extensive policy and procedure for "Use of force" and that it would generate an Incident Report as well as an investigation both by the mental health staff as well as correctional staff and would produce documentation to be signed off on by numerous staff. They reported that all allegations of this sort would be reported in a meeting which is held each morning with both the mental health and correctional staff present. The HRA asked if these procedures were followed in this case, where a staff member recorded an inmate's report of being struck by an officer as well as by his roommate. They indicated that there is no documentation of an investigation that resulted from the inmate's report of abuse. Correctional staff indicated that there is no Incident Report filed on this inmate and that he did not file a grievance or complaint because the complaint would then have initiated an Incident Report which would have been forwarded to the Office of Professional Review. Staff were asked if the hospital staff are under a duty to report abuse mandate and they indicated that staff are asked to report these incidents. Staff also confirmed that there is a nurse on each unit who is available to inmates at all times.

Staff were interviewed about the recipient's ability to make phone calls. They indicated that there is policy and procedure for phone calls and they indicated that this inmate was given the opportunity to make phone calls in accordance with this policy, and staff provided the recipient's phone call record to indicate that he had attempted to make phone calls but that these calls were not accepted by the receiving party. Staff indicated that the inmate did have money in

his account to make calls. They indicated that the process for setting up an inmate phone account is available on the internet and is provided to all inmates in their Inmate Handbook. The Handbook also shows the process for requesting phone calls through Inmate Services if the inmate is unable to make a phone call through the existing phone system. Staff indicated that recipients are given a free 15 minute call at Intake into the jail. Additionally, every inmate's first phone call from the living unit is free for up to 5 minutes. Attorney calls are all free.

The Inmate Handbook, as well as the Cook County Sherriff's website, provide the detail for how to set up an inmate phone account and how to add funds to this account. The Handbook indicates that upon admission inmates will be permitted to make a reasonable number of completed calls, both local and long distance, to an attorney and to a family member. Such calls shall be afforded as soon as practicable during the admission process. The expense for these calls is the responsibility of the inmate or the person they are calling (the website indicates that these calls are free). The date and time of the calls made during the admission process are recorded. General access to phones is available for at least one call per week, but generally inmates are given more. Inmates are required to bear the expense of any telephone call or they may place collect calls. If an inmate is unable to call collect, they are directed to contact a CRW who will help them make contact with the person they are trying to call. Call rates are \$.175 per minute for collect calls. Inmates may establish a prepaid account where monies are deposited by friends or family by using money orders, cashiers' checks, certified checks, or electronic transfer.

The Cermak correctional staff provided the Advanced Mental Health Training agenda for the most recent recruit class. This training includes modules addressing the signs and symptoms of mental illness, autism spectrum, developmental disabilities, psychopharmacology, schizophrenia, cognitive functioning, crisis intervention, gender responsiveness, suicide identification and prevention, and other topics related to mental health. This is an extensive month-long training.

## STATUTES

The Mental Health Code states that "No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution, or the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services" (405 ILCS 5/2-100 a). Also, "A person with a known or suspected mental illness or developmental disability shall not be denied mental health or developmental services because of age, race, religious belief, ethnic origin, marital status, physical or mental disability or criminal record unrelated to present dangerousness" (2-100 b).

The Mental Health Code states that "A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan." (2-102 a). It also prohibits any form of abuse (2-112).

The Mental Health Code states that "a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation." This communication may be restricted by the facility director "only in order to protect the recipient or

others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission. When communications are restricted, the facility shall advise the recipient that he has the right to require the facility to notify the affected parties of the restriction, and to notify such affected party when the restrictions are no longer in effect. However, all letters addressed by a recipient to the Governor, members of the General Assembly, Attorney General, judges, state's attorneys, Guardianship and Advocacy Commission, or the Agency designated pursuant to 'An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named', officers of the Department, or licensed attorneys at law must be forwarded at once to the persons to whom they are addressed without examination by the facility. Letters in reply from the officials and attorneys mentioned above must be delivered to the recipient without examination by the facility authorities." Additionally, "No facility shall prevent any attorney who represents a recipient or who has been requested to do so by any relative or family member of the recipient, from visiting a recipient during normal business hours, unless that recipient refuses to meet with an attorney" (405 ILCS 5/2-103).

The Administrative Code for County Jail Standards mandates that jails provide a competent medical authority to ensure that the following documented medical and mental health services are available: Collection and diagnosis of complaints, treatment of ailments, prescription of medications and special diets, environmental health inspections, etc. Also, a medical doctor must be available to attend to the medical and mental health needs of detainees. Additionally, there is a daily sick call to address emergency complaints. (20 Ill. Admin. Code Title 20 Section 701.90 Medical and Mental Health Care).

## CERMAK HEALTH SERVICES POLICY

Cermak Health Services provided Policy B-06 which outlines the policy and procedure for Reporting Physical Injury of Inmates. It states, "Cermak Health Services will collaborate with the Cook County Department of Corrections (CCDOC) to recognize and report injuries to inmates that are possibly caused by staff-on-inmate or inmate-on-inmate abuse, whether or not the inmate makes an allegation." "Use of force" is described as the "application of physical, chemical, electrical, or mechanical measures to compel compliance by an unwilling subject, not including unresisted application of handcuffs, leg irons, waist chains or other approved security devices for purposes of movement." The procedure associated with evaluation of injury after the use of force (whether or not injury has been reported), involves the triage of the inmate, questioning of the inmate, and notifying the physician or mid-level practitioner of any reported use of force or any alleged abuse. The physician or mid-level practitioner then questions the inmate, documents any injuries, clinical care provided, and follow-up plans for the inmate. A brief summary of the initial medical encounter is forwarded to the office of the chief medical officer at the end of the shift. The CMO will then retain the summary and route photocopies to the Divisional Superintendent, Criminal Intelligence Unit, or Directors of the Office of Professional Review, depending on the nature of the force. For alleged staff-on-inmate abuse, the summary is routed to the Executive Director of the Office of Professional Review. This policy also indicates that the chief medical officer or his/her designee will review any injury reports at the start of each business day and "Review any injury reports submitted by Cermak staff members and any incident reports received from CCDOC's External Operations Unit,

which maintains the Jail Notification Log (JNL); contact the clinician if an incident report received from CCDOC does not have a corresponding injury report from Cermak. The chief medical officer or designee, at the start of each calendar month will tabulate the number of cases for which both a medical summary and a corresponding JNL entry were received and the number for which only one or the other was received, and distribute this report to Cermak's chief operating officer, and to the executive directors of CCDOC, OPR, and CIU."

Cermak Health Services provided the HRA with their policy on telephone use (#24.14.110), which is equipped with a personal identification number system as well as voice recognition. The policy indicates that inmates will be given access to phone use for maintaining contact with legal counsel, family, and the community within the guidelines prescribed by the CCDOC. It states that upon Intake inmates are given a reasonable number of phone calls to their attorney and family members or a friend. For general phone use, inmates may place at least one phone call per week and phones are located on all living units. Additional calls may be permitted by the Executive Director or his designee. A minimum of 5 minutes and a maximum of 30 minutes is allotted for each call and all calls are collect, however pre-paid calls via inmate accounts may be established. Inmates are not permitted to receive incoming calls and all calls may be monitored. Inmates housed in Protective Custody, Special Management, or Disciplinary Segregation have access to the telephone daily during their one hour exercise period. Emergency calls are permitted for verifiable emergencies and these calls are first forwarded to the Watch Commander prior to contacting the inmate. Telephone calls may be monitored unless prior special arrangements have been made to make court ordered confidential calls to or from the inmate's attorney.

## CONCLUSION

The Mental Health and Developmental Disabilities Code states that a recipient of services shall be provided with adequate and humane care. Cermak Health Services policy indicates that "Cermak Health Services will collaborate with the Cook County Department of Corrections to recognize and report injuries to inmates that are possibly caused by staff-on-inmate or inmate-on-inmate abuse, whether or not the inmate makes an allegation". In this case, the HRA is not able to substantiate the incidents which were reported to us by the recipient on the dates that he offered. However the record does describe two incidents of use of force, entered into the record on 2/27/14 and 4/02/14 by mental health staff, which did not initiate the protocol outlined in the above policy- no reports were taken to the morning meeting of the mental health and correctional staff, no Incident Report was filed, and no follow-up reports were generated. The HRA understands the unique challenges of providing mental health services to such a large and potentially dangerous population as that of CCDOC, however we have been assured in the past that the mental health facility that is part of this jail will be administered within the mandates of the Mental Health Code, and we view the physical safety of mentally ill patients as a necessary starting point of all advocacy. The HRA finds that since Cermak policy requires the investigation of reports and/or injuries resulting from staff on inmate and inmate on inmate abuse, that the recipient's rights were violated in this case.

The Mental Health Code states that "a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored

communication with persons of his choice by mail, telephone and visitation.” The HRA has discussed this issue with correctional staff in the past and we agreed that there are necessary security restrictions which must be placed on recipients’ rights to communicate from within a correctional facility. We defer to the correctional standards as set forth in the CCDOC phone policy and the Inmate Handbook. However in reviewing the phone record in this case, we note that there is no record of the recipient having attempted or received his admission phone calls at Intake, as is guaranteed by facility policy and the Inmate Handbook. Additionally, it does not appear from the record that the recipient was ever able to speak with his attorney. We do not know what circumstances might have prevented the above calls but if the record is accurate, the inmate spoke with no outside party for the duration of his incarceration. Because the CCDOC policy indicates that admission calls are recorded, whether they are completed or not, the HRA substantiates the complaint that the recipient was denied phone calls. Since the record shows that calls were generated to the recipient’s attorney and two were completed (although the attorney hung up), the HRA does not substantiate that the recipient was not allowed to call his attorney.

## RECOMMENDATIONS

1. Review with mental health staff the policy and procedure for reporting “use of force” and include all reports of abuse in the meetings between mental health and correctional staff.
2. Ensure that recipients are given their opportunity to make their Intake calls at admission or as soon thereafter as is reasonable.

## SUGGESTIONS

1. The HRA believes systems work best that allow for open discussion amongst stakeholders. To this end we suggest that Cermak staff partner with the HRA to prevent rights violations or address them once they are reported.
2. The correctional staff in this case was not given the complaint until moments before the HRA site visit and the mental health staff had not reviewed the recipient’s record, so they were not prepared to answer HRA questions regarding the complaint. The HRA suggests that a staff person be appointed to review the record once a case is opened and that all parties involved are given the opportunity to present their view of the events.