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**Egyptian Regional Human Rights Authority
Report of Findings
15-110-9006
Illinois Department of Human Services (DHS)
July 30, 2015**

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning the Illinois Department of Human Services. The specific allegation is as follows:

1. An inadequate transfer/discharge planning process was followed

If substantiated, the allegation would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-101, 102) and the Code of Criminal Procedure (725 ILCS 5/104-13, 17).

According to its website, the Illinois Department of Human Services (DHS) offers a comprehensive and coordinated array of social services to help improve the quality of life for thousands of individuals, families and communities across the state. DHS administers community health and prevention programs, oversees interactive provider networks that treat persons with developmental disabilities, mental health and substance abuse challenges and provides rehabilitation services. DHS also aids eligible, low-income individuals and families with essential financial support, locating training and employment opportunities and obtaining child care in addition to other family services. This case involves the DHS' role in overseeing the transfer of a person who has been remanded from jail to the DHS for mental health treatment.

To investigate the allegation, the HRA Investigation Team consisting of two members and the HRA Coordinator conducted a site visit at the jail, the state operated mental health facility and conducted a telephone conference with officials representing DHS. During the visits to the jail and state operated mental health facility, the team spoke with the recipient whose rights were alleged to have been violated and the Sheriff.

I. Interviews:

A. Recipient: The recipient informed the HRA that he was initially in the county jail, then transferred to a maximum security state operated mental health facility to attain fitness and was eventually found fit and returned to the jail. The recipient was concerned over his transfer to the maximum security state operated mental health facility from the jail. The recipient stated that a doctor came to complete his pre-placement evaluation and stated that he would go to a state operated facility for treatment to attain fitness, but that he did not require a maximum security

facility because he was displaying no aggressive behavior. After that, the recipient stated that the forensic coordinator at the receiving hospital sent a letter which stated that he had been accepted into the facility, but at that time there were no available beds. Therefore, he would have to remain in jail until a bed becomes available. However, the recipient stated that a short time later, he was informed that he would be going to the other state facility which was a maximum setting. When the recipient questioned the Sheriff about the change of plans, the Sheriff stated that he had to “call in favors” to get him into the facility because he could not stay in the jail any longer. The recipient alleged that even the Court did not know where he was because a writ to appear in Court was sent to the facility he was originally scheduled to transfer to instead of the maximum facility he actually went to.

B. Sheriff: The Sheriff informed the HRA that the recipient ended up in jail because the Judge had ordered the Sheriff to serve him an eviction notice after a domestic issue despite the fact that the Sheriff had asked the Judge not to evict the recipient. When the recipient learned of the eviction notice, he allegedly posted on social media that he would shoot anyone who tried to take him out of his home. Therefore, to be safe, the Sheriff took a tactical team to serve him the eviction notice and even paid for a hotel room at which he could stay. The Sheriff denied telling the recipient that he had “called in favors” to get him into the maximum secure facility and stated that DHS makes the decision as to which facility a particular person is transported. The Sheriff stated that he did not recall transporting the recipient to the DHS facility but could not remember why and stated that he must have been off at the time and that a Deputy who was on duty at that time would have transported in the Sheriff’s absence. The HRA later confirmed with the secretary and a guard on duty during the HRA’s visit that the Sheriff was the one who logged the recipient out for transfer to the DHS facility.

C. State’s Attorney: The HRA spoke with the State’s Attorney regarding the Writ being sent to the original DHS facility instead of the maximum secure facility where the recipient was transported. The State’s Attorney stated that the Writ should have been sent to the maximum secure facility that it was a clerical error but insisted that the Court knew where the recipient was. The HRA requested a copy of the letter or Order that authorized the recipient’s transfer to the maximum secure facility and notified the Court as to where the recipient was being sent. The State’s Attorney referred us to the Circuit Clerk who reviewed the court file and could not find any such documentation. The HRA was provided with a copy of the court docket on his case to review.

D. DHS Forensic Coordinator: The HRA contacted the Forensic Coordinator for DHS to inquire about this recipient’s transfer and if there was documentation authorizing the transfer. The Forensic Coordinator informed the HRA that he had called the Sheriff and notified him that a bed had opened up at the maximum security hospital and told him to transport the recipient to that facility. However, he stated that the recipient had been accepted onto that facility’s new “medium security unit” not on the maximum security units.

E. Transfer Coordinator: The HRA contacted the Transfer Coordinator at the facility to which the recipient was transferred. He confirmed that a medium unit had recently been opened to help with the lack of bed availability at state operated facilities and that was the unit in which the recipient was housed while at the facility. Regarding his transfer to the facility, he informed the

HRA that there is usually a transport letter which authorizes transfer of patients to the facility. He agreed to look for that letter, but was not sure he could locate it. The HRA followed up with the Transfer Coordinator two more times however, the letter was never located for the HRA to review.

F. Telephone Conference: The HRA participated in a telephone conference which included the Deputy Director of Forensic Services, A DHS doctor who is involved with transfers and the transfer coordinator at the state operated mental health facility to which the recipient was transferred. The HRA inquired as to the process for placement when someone is remanded to the DHS by the Court. The following procedure is followed:

- A DHS preplacement team conducts a pre-placement evaluation once the court order is received. The person doing the assessment is regionally based and there are teams located in at least 4 regional areas throughout the state. That evaluator makes a determination on whether the patient requires a maximum security setting based on the form tool that is used and also determines which specific DHS facility should receive the patient. They try to keep patients in their catchment area, but sometimes they have to be placed outside of that region.
- The recommendation is sent to the Forensic Coordinator who then reviews and searches for bed availability. If no beds are available the patient has to remain in jail until a bed becomes available at any DHS facility.
- The results of the pre-placement evaluation are sent to the DHS doctor we spoke with for a “level 2 review” and approval.
- The Forensic Coordinator then contacts the Sheriff when a bed becomes available.
- The Sheriff notifies the court and obtains an Order to transport the patient to the facility
- Within 30 days of being placed at the DHS facility, a report is filed with the Court.

The HRA questioned if there is typically a letter written to the Sheriff authorizing transport or a letter drafted to notify the Court of the facility to which the patient is being transferred. The response was that the Sheriff is usually notified and then coordinates with the Court to obtain whatever Order or authorization is necessary, but stated a letter is not always drafted to the Sheriff, the communication can be by telephone. The DHS representatives did state that it was unusual for there to be no “paper trail” anywhere showing that authorization for transport was given.

II Chart Review:

The HRA reviewed the recipient’s chart at the state operated facility where he was admitted. The 3 day Treatment Plan Review (TPR) detailed the reason for admission as being found unfit to stand trial (UST) on 2 charges of aggravated domestic battery. There is no mention in the case notes or in the TPR of events prior to admission to the facility and the HRA found no transport letter in the chart. The HRA could not obtain a copy of this recipient’s forensic pre-placement evaluation. However, the HRA was given a copy of the form that is used for the initial forensic placement evaluation to assess and determine a facility placement. One of the options listed under facility placement is a medium security unit at the maximum security hospital.

The HRA obtained a copy of a letter to the Judge from the Forensic Coordinator for the DHS. The letter stated that the medium security hospital, that the recipient was recommended to be transferred to, had received notice of his placement but stated that “at this time, our bed capacity is at its maximum, and we are not able to admit [recipient]. On a daily basis we evaluate the status of our patients, our census and the list of individuals awaiting admission into our hospital. As soon as there is an available bed, we will notify jail staff and arrange for admission.”

II. Docket Review:

On 2/10/14 the recipient’s attorney indicated he would file a Motion for Fitness Evaluation. On 2/14/14 another court date was held for the Motion to Determine Fitness of the recipient to stand trial. The recipient was not in court and it was indicated that he was in the County Jail at that time. An Order was issued for a fitness examination. On 4/3/14 an order finding the recipient Unfit to Stand Trial was entered. On 6/6/14 an Order of Habeas Corpus was returned as not served (wrong address) then on 7/1/14 it was returned as served. On 7/3/14 a Fitness Report was received. On 9/25/14 the recipient was found fit to stand trial. On 12/8/14 he was remanded to the custody of the Department of Corrections.

Statutes

The Code of Criminal Procedure (725 ILCS 5/104-13) states that “When the issue of fitness involves the defendant's mental condition, the court shall order an examination of the defendant by one or more licensed physicians, clinical psychologists, or psychiatrists chosen by the court. No physician, clinical psychologist or psychiatrist employed by the Department of Human Services shall be ordered to perform, in his official capacity, an examination under this Section...(c) An examination ordered under this Section shall be given at the place designated by the person who will conduct the examination, except that if the defendant is being held in custody, the examination shall take place at such location as the court directs. No examinations under this Section shall be ordered to take place at mental health or developmental disabilities facilities operated by the Department of Human Services. If the defendant fails to keep appointments without reasonable cause or if the person conducting the examination reports to the court that diagnosis requires hospitalization or extended observation, the court may order the defendant admitted to an appropriate facility for an examination, other than a screening examination, for not more than 7 days. The court may, upon a showing of good cause, grant an additional 7 days to complete the examination.”

The Code of Criminal Procedure (725 ILCS 5/104-17) states the following regarding commitment for treatment “*if the defendant’s disability is mental, the court may order him placed for treatment in the custody of the Department of Human Services, or the court may order him placed in the custody of any other appropriate public or private mental health facility or treatment program which has agreed to provide treatment to the defendant. If the defendant is placed in the custody of the Department of Human Services, the defendant shall be placed in a secure setting. During the period of time required to determine the appropriate placement, the defendant shall remain in jail. If upon the completion of the placement process the Department of Human Services determines that the defendant is currently fit to stand trial, it shall immediately notify the court and shall submit a written report within 7 days. In that*

circumstance the placement shall be held pending a court hearing on the Department's report. Otherwise, upon completion of the placement process, the Sheriff shall be notified and shall transport the defendant to the designated facility. The placement may be ordered either on an inpatient or an outpatient basis."

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-101) states "No recipient of services shall be presumed legally disabled, nor shall such person be held legally disabled except as determined by a court. Such determination shall be separate from a judicial proceeding held to determine whether a person is subject to involuntary admission or meets the standard for judicial admission."

The Code (405 ILCS 5/2-102) provides 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. 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..."

Conclusion

The recipient stated that after his pre-placement evaluation, he was scheduled to go to a medium security state operated facility and instead, he was sent to a maximum security facility and that the Court did not know where he was as a writ for him to appear in court was sent to the original facility that he was scheduled to go to instead of where he was housed. He also alleged that the Sheriff stated he had to "called in favors" to get him sent to the facility because he could not stay at the jail any longer. The sheriff denied making such a statement and stated that when a person is ordered to the Department of Human Services (DHS) to attain fitness, the probation office and the State's Attorney coordinate the transfer. The DHS forensic coordinator informed the HRA that he contacted the Sheriff and authorized the transfer to the maximum security facility; however the recipient was to be housed on its medium unit not the maximum security side. The HRA confirmed with the state operated facility that the recipient was indeed housed on its medium unit due to lack of bed availability at the other facility. The State's Attorney confirmed that the Court knew where the recipient was and that the writ going to the wrong facility was a clerical error. Therefore, the allegation is **unsubstantiated**. The following **suggestion** is offered:

1. The HRA could find no paper trail in the jail file, the court file or at the mental health facility that authorized this recipient's transfer to that facility. The HRA suggests that in the future, if authorization to transfer inmates is given via telephone, that some type of written correspondence also be drafted to document the authorization. It could be in the form of a letter to the Circuit Clerk and/or Sheriff or simply a memo to the recipient's file.