

3/6/2018

Executive Council Members

Arizona Psychiatric Society

Dear Council Members.

This letter is written to propose that the APS undertake a study of the Arizona Rules of Criminal Procedure (Rule 11) in regard to jail based competency evaluation and restoration programs. In Arizona, since 2005 individuals charged with crimes and evaluated for competency to stand trial under Rule 11 have increasingly been evaluated in county jails and restored, if necessary, in county jails or community programs rather than in a psychiatric hospital. Jail restoration occurs in other states, but not to the extent that exists in Arizona. In 2004 the ASH had an average census of 267 patients admitted for competency evaluation or restoration. In 2016 the average census at ASH was 4. The patients are now in the jails for restoration or in the community.

I came to Arizona 2.5 years ago and have been teaching forensic psychiatry to Banner psychiatric residents focused on public forensic mental health services. During the past year I have worked with Dr. Scott Kirkorsky, a 4<sup>th</sup> year Banner resident who will take a forensic fellowship next year. We have concentrated much of our work this year on the Rule 11 process in the state's jails. I will present a summary of our work at grand rounds at Banner on April 13 which you are welcome to attend.

There are 5 jail RTC programs in the state located in Pima, Yavapai, Yuma, Pinal, and Maricopa Counties. The Pinal program is new and is being organized. The Yuma program is being reorganized and has an RFP on-line with program expectations outlined in that RFP. We visited the Yavapai program and had meetings with Pima and Maricopa

program administrators. Yavapai appears to be a strong program with longstanding leadership. The program readily provided us with program data going back many years. Pima County is gathering data to provide to us. However, Maricopa had no data that they were willing to share with us. I believe that the Yavapai program is the only one of the three that employs a psychiatrist directly for the RTC program while Pima and Maricopa counties have psychiatric consultation available from their corrections health programs.

The Maricopa RTC program raises specific concerns. This county has been involved in a lawsuit, *Graves v. Penzone (Arpiao)* regarding jail health and mental health services since 1997. I am attaching to this letter several recent filings in this case including a report by the psychiatric consultant for the plaintiffs, Dr. Pablo Stewart from San Francisco in which he describes the situation that exists for many jail detainees in the Rule 11, RTC program. Needless-to-say, if these reports are accurate there are some (many) inmates who go untreated for extended periods of time. This, again if accurate, both from a psychiatric and patient rights viewpoint represents serious abuse of these severely mentally ill detainees. We were unable to secure any data from the County that either supports or refutes Dr. Stewart's opinions.

We have little information at this time about the Pima County program. The program administrator committed to send us program data and the program appears well organized with longstanding leadership.

I am proposing that APS undertake a 2-step process. First, the Council should appoint a small committee with representation from the forensic psychiatric community and others to review what we know about the current situation in the state. Second, depending on the

review and any possible data gathered the committee develop an action plan that would be reviewed by the Executive Council for approval or modification. I think the chair should be a well-known Arizona psychiatrist with forensic interests and familiarity with the legal community either based at the University or in practice, who would be willing to undertake this task. I would be happy to serve on the committee and participate in the deliberations. As a newcomer I believe this would be the most appropriate role for me.

I want to thank the Council for considering this letter. I feel that individuals acting on their own can easily be disregarded, while the weight of the state's psychiatric association may be able to advocate more strongly for change in the direction of creating professional guidelines for the jail-based Rule 11 programs.

Sincerely,

Joseph D. Bloom, M.D.

c. Teri Harnish

Scott Kirkorsky, M.D.