

LPS
Mental Health
Conservatorships

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LANTERMAN-PETRIS-SHORT ACT, 1967

- Purpose of the Act (W&I Sec 5000 et seq) was “to end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders”.
- Limits involuntary commitments and treatment to where police or mental health professional deems the individual a danger to self, a danger to others, or is “gravely disabled”. May be “held” for 72-hours (Sec 5150), 14-days (Sec 5250), or 30-days (Sec 5350).
- If the individual remains gravely disabled *and* unwilling/unable to accept treatment voluntarily, an LPS Conservatorship may be established (Sec 5008) for individual’s “financial and personal protection”.

“GRAVELY DISABLED”

Beyond A Reasonable Doubt

- The individual is at risk of physical harm because he/sbe is *unable* to provide food, clothing or shelter *due to a mental disorder* or chronic alcoholism (Sec 5008).
- The individual must be *currently* unable to meet basic needs and voluntarily accept treatment, not just previously or potentially.
- The individual must not have a responsible third-party (e.g., friend or relative) willing and able to provide for the his/her basic needs. Third-party must write letter or appear in court.

SOLUTION TO OUR MENTALLY ILL HOMELESS CRISIS?

- Estimated 1/3 of homeless have a major mental disorder.
- Homeless mentally ill individual must be *unable* to provide for his/her food, shelter, and clothing, and to voluntarily accept treatment, not just *unwilling*.
- LPS Conservatorships are costly (legal, placement, medical/psychiatric treatment, supervision); cost born by home county, wide variation between counties in application.

SOLUTION TO MENTALLY ILL INCARCERATION?

- Estimated 20-25% of incarcerated individuals have a serious mental illness, many on misdemeanor "nuisance" charges".
- "Criminalization" of mental illness.
- Largest mental health treatment facilities in the US are jails and prisons.
- US has the same per capita number of psychiatric hospital beds that it had 150 years ago.
- Estimated 90% of inpatient treatment beds are filled with individuals sent through the criminal justice system.

CLIENT RIGHTS

TYPICAL RIGHTS TRANSFERRED TO CONSERVATOR

- To decide where to live (range: own home to locked facility).
- To manage own finances.

SAMPLE DISCRETIONARY RIGHTS

- To enter contracts
- To have a driver's license
- To possess a firearm
- To vote
- To refuse medical/psychiatric treatment

CLIENT RIGHTS (cont.)

SAMPLE RETAINED RIGHTS

To challenge the conservatorship (every 6 months, burden shifts)

To legal representation by an attorney (usually public defender)

To wear your own clothes

To make confidential phone calls and correspondence

To had visitors daily

To money for canteen/commisary expenses

To least restrictive treatment and placement

To refuse surgery unless risk of death or serious bodily injury

PATHS TO LPS CONSERVATORSHIP

- **W&I Sec. 5150, 5250, 5350-TCon**
- **Not restorable to trial competency**
- **Direct petition**

MURPHY CONSERVATORSHIP

- Person has been found incompetent to stand trial due to a mental disorder and has no substantial likelihood of being restored to competency in the foreseeable future (PC1370).
- Felony charges involving death, great bodily harm, or serious threat to the physical well-being of another person.
- Probable cause has been determined that the alleged crime was committed.
- The person continues to represent a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.
- Typically placed in “hospital for criminally insane” until restored to trial competency or deemed no longer a danger of harm to others.

LPS CONSERVATORSHIP PROCESS

- **Referral to Court**
- **Court orders investigation**
- **Court orders formal grave disability evaluation**
- **Pre-trial Conference/Trial**

GRAVE DISABILITY EVALUATION

-- Document Review:

5150, 5250, 5350 Reports

Recommendation and Justification for Conservatorship

Conservatorship Investigator Report

Placement Progress Notes and Clinical Reports (60 days)

Placement Medication Administration Record

-- **Examination** (*clinical interview and sample questions*)

-- **Collateral Input**

SPECIAL SITUATIONS: PERSONALITY DISORDERS

“An enduring and inflexible pattern of long duration leading to significant distress or impairment not due to substance use or medical condition.”

CLUSTER A (Odd, Eccentric):

Paranoid, Schizoid, Schizotypal

CLUSTER B (Dramatic, Erratic):

Antisocial, Histrionic, Narcissistic, Borderline

CLUSTER C (Anxious, Fearful):

Dependent, Avoidant, Obsessive-Compulsive

SPECIAL SITUATIONS: DEVELOPMENTAL DISABILITIES

- **Intellectual Disability** (IQ and Adaptive Behavior SS<70)
- **Autism Spectrum Disorder**
- **Epilepsy**
- **Cerebral Palsy**
- **Other Similarly Handicapping Conditions** (e.g. FAS, ADHD)

Onset before age 18, Incurable, Significant Impairment

SPECIAL SITUATIONS: NEUROPATHOLOGY

- **Dementia** (*Parkinsons, Alzheimers, Korsakoff's??*)
- **Traumatic Brain Injury**

TYPICAL LPS CONSERVATEE

Mendocino County

- **White**
- **Schizoaffective Disorder**
- **Medication Noncompliant**
- **Methamphetamine Use**
- **Homeless**
- **Loner**

CASE STUDY 1: BLANCHE DUBOIS

- **5150**
- **Elderly**
- **Delusional**
- **Wealthy**

CASE STUDY 2: BAD BOY

- **Schizophrenic**
- **Meth addict**
- **Not restorable to competency**
- **Homeless**

CASE STUDY 3: BAD GIRL

- 23-year old
- Adopted at 5 weeks, bio mother prenatal meth and alcohol
- First psych meds age 18-mo for emotional/behavioral dysregulation
- Age 11: Dx ADHD, ODD, BPD 1, FAS, Mood Dysregulation, First 5150
- Regional Center client: IQ 55, Adaptive Behavior 56
- Polysubstance Use Disorder and Promiscuity since mid-teens
- Probate conservatorship with adoptive mother at age 18, now relinquishing and applying for LPS conservatorship per recommendation of probate court or “she may wind up dead”
- Unable to manage money, crash pad, multiple evictions

REFERENCE MATERIAL

Sample Forms and Reports in Handout