



CBHPC Patients' Rights Committee

**Survey of Local Behavioral Health Boards/Commissions
on County Mental Health Patients' Rights Advocacy**

February 2021

Background

The Patients' Rights Committee (PRC) of the California Behavioral Health Planning Council (CBHPC) is mandated in state law to advise the Departments of Health Care Services and State Hospitals regarding policies and practices that affect patients' rights. The PRC also monitors, reviews, evaluates, and makes recommendations for the protection and upholding of patients' rights to receive effective, timely, and humane treatment in the public mental health system of California. In recent years, the PRC has aimed to make positive changes in the public mental health system by raising awareness of the work of patients' rights advocates and the vital work that they do to ensure the rights of mental health patients.

In 2017, the PRC worked in collaboration with the California Association of Mental health Patients' Rights Advocates (CAMHPRA) to release an issue paper highlighting resources, training, and retaliation issues in county advocacy programs. This work resulted in two legislative bills that were signed into law. Assembly Bill 2316 (Eggman) ensures timely and appropriate training of newly hired patients' rights advocates via an online training program. Compliance with this law is tracked by the PRC, who receives verification of the completion of the training modules. Assembly Bill 333 (Eggman) provides whistleblower protections for patients' rights advocates who are county contractors. These bills were passed in 2018 and 2019, respectively.

The Patients' Rights Committee has continued to work on these issues and has identified patients' rights in county jails as an area of particular interest. The committee worked to inform members about this topic through conversations and presentations with patients' rights advocates and organizations such as the California Office of Patients' Rights, Disability Rights California, and the ACLU of San Diego. Through these efforts the PRC learned that advocates working in county jails face many challenges and obstacles, including lack of staffing and trouble accessing facilities to engage with patients. This is to the detriment of patients in county jails, who are particularly vulnerable to patients' rights violations and are in high need of mental health services.

In June 2019, the Patients' Rights Committee of the California Behavioral Health Planning Council decided to do a survey of Local Behavioral Health Boards and Commissions. The purpose of the survey was to see how familiar the boards and commissions are with the duties and responsibilities of county mental health patients' rights advocates (PRAs), as well as the work that they do in county jails specifically. As this survey was intended to be a "first step" in exploring this topic, it was kept to a short form of eight questions. This was also intended to maximize participation by keeping the survey short and quick for the participants. The survey invitation was sent out in May 2020 to all 59 of California's boards and commissions, with the help of the California Association of Local Behavioral Health Boards and Commissions (CALBHBC). Responses were received from 41 boards/commissions across the state.

Survey Results and Discussion

The first question of the survey asked the respondent to identify the board/commission they represented, and to provide contact information for potential follow-ups. The 41 boards/commissions from which survey responses were received are:

Alameda, Alpine, Amador, Berkeley, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kings, Lassen, Los Angeles, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Sacramento, San Benito, San Diego, San Francisco, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Siskiyou, Stanislaus, Sutter-Yuba, Trinity, Tulare, Ventura, and Yolo.

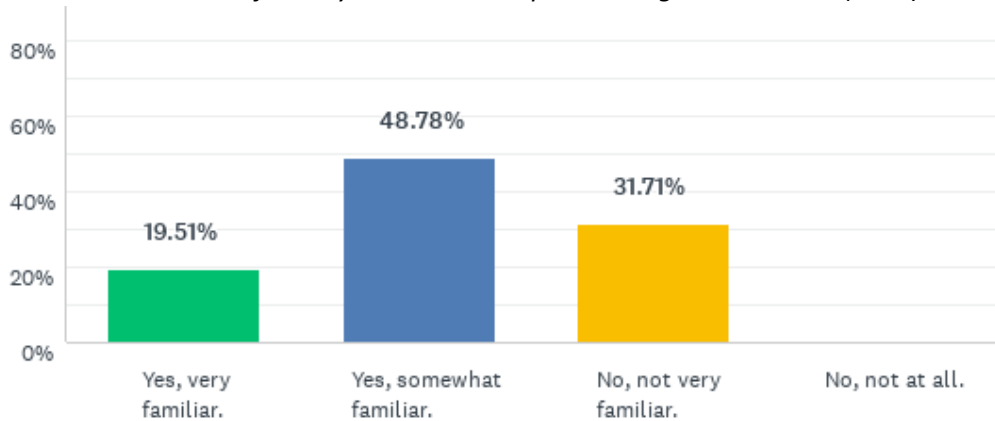
The responding counties were categorized by population size to see the distribution of participating boards/commissions. The size categories used and the number of responses in each were as follows:

Category:	Population Size:	Number of Responses:
Small Rural	< 50,000	11
Small	50,000-199,999	9
Medium	200,000-749,000	12
Large	750,000-3,999,999	8
Very Large	>= 4,000,000	1

Interestingly, there were not many differences in answers to the survey questions based on county size. However, it is good to see that counties of all sizes were represented in the survey responses.

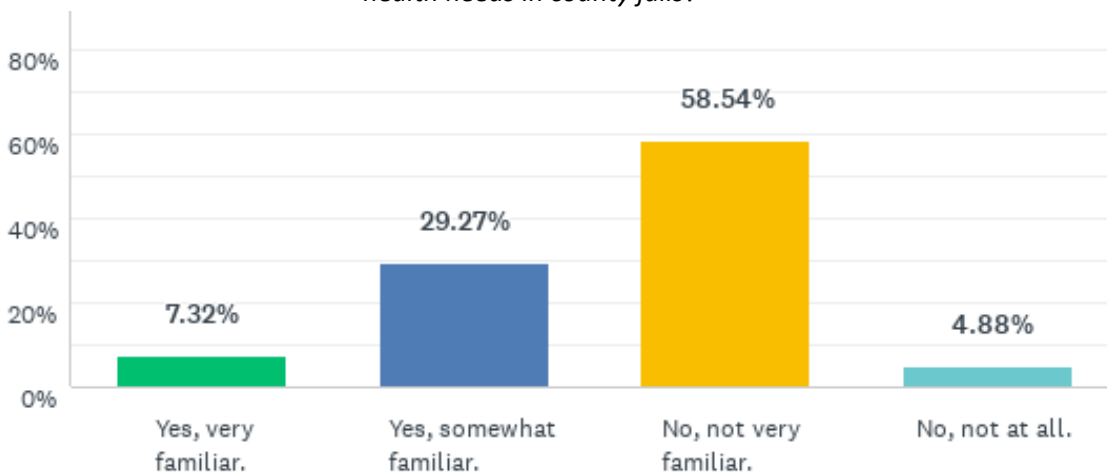
Question 2 (see chart below) asked whether members of the board/commission were familiar with the roles and duties of PRAs in general. Most boards/commissions indicated that their members were familiar, with about 20% answering “Yes, very familiar” and close to 50% answering “Yes, somewhat familiar.” About 32% responded “No, not very familiar”, and none of the participating boards/commissions responded “No, not at all.” These results are overall promising, though the PRC aims to further increase awareness of patients’ rights advocacy work among the local behavioral health boards and commissions.

Question 2: Are members of the local behavioral health board or commission familiar with the general role and duties of county mental health patients' rights advocates (PRAs)?



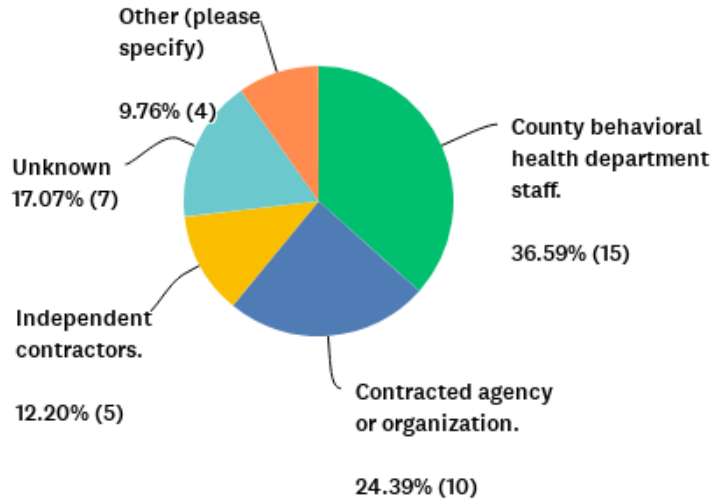
When asked whether members were familiar with PRA duties regarding individuals in county jails specifically, the responses were noticeably different. Only about 37% responded “Yes, very familiar” or “Yes, somewhat familiar.” The majority of board/commissions (nearly 60%) responded “No, not very familiar.” This difference in familiarity is very telling, and in line with what the Patients’ Rights Committee anticipated. It highlights the need to raise awareness of patients’ rights advocacy work in county jails.

Question 3: Are members of the local behavioral health board or commission familiar with the roles and duties of county mental health patients’ rights advocates (PRAs) regarding individuals with mental health needs in county jails?



The local behavioral health boards/commissions were next asked about who provides mental health patients’ rights advocacy services in their county. This question has two potential uses. First, it provides information to the PRC about how patient’s rights services are provided throughout the state. Second, it shows how familiar the boards/commissions are with that advocacy work. The following pie chart shows the distribution of responses.

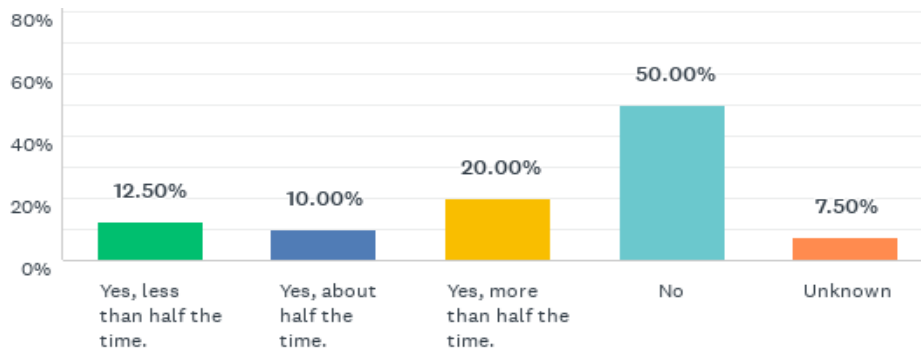
Question 4: Who provides mental health patients' rights advocacy services in your county/jurisdiction?



As shown in the graph, most respondents reported that PRC services in their county are provided by county behavioral health department staff (37%). About the same amount answered either "independent contractors" or "contracted agency or organization." An additional 17% indicated that they did not know who provided advocacy services in their county. Those that answered "other" indicated that services were provided by either a mix of staff and contractors or were provided by other county staff (not behavioral health department staff).

Question 5 asked whether patients' rights advocates attended their local behavioral health board/commission meetings. One respondent skipped this question, leaving 40 responses. An even 50% responded "No," and around 43% responded "Yes" to varying degrees, as shown in the chart below.

Question 5: Do any patients' rights advocates (PRAs) in your county attend local behavioral health board/commission meetings?

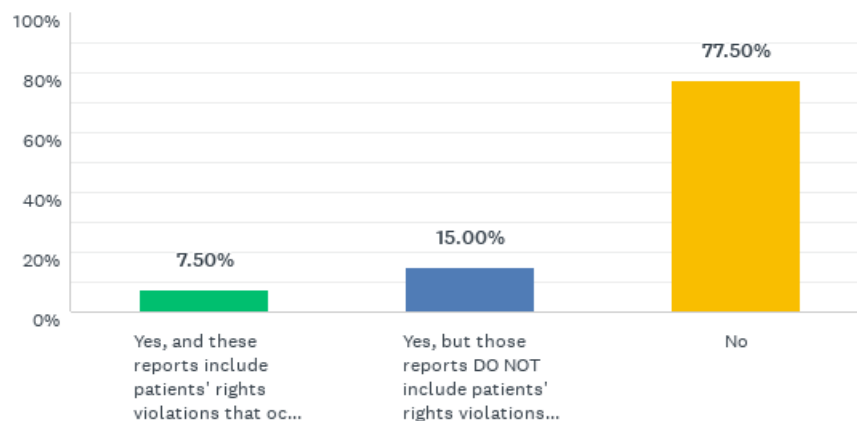


Patients' right advocates attending board/commission meetings is one way that these two groups could communicate and stay informed about each other's work. The PRC recognizes

that it may not be necessary or even possible for PRAs to attend board/commission meetings given their large workloads and busy schedules. However, when it is possible and helpful, we encourage patients' rights advocates and board/commission members to communicate regarding mental health work in their counties.

In Question 6, respondents were asked if their local board/commission regularly receives reports on patients' rights activities or violations that occur in their county. The "Yes" responses were separated by whether those reports included violations that occur in county jails. The PRC anticipated that most boards/commissions do not receive such reports, which proved to be true. Almost 78% responded that no, they did not receive reports on patients' rights activities or violations.

Question 6: Does your local behavioral health board or commission regularly receive reports on patients' rights activities or violations that occur in your county?

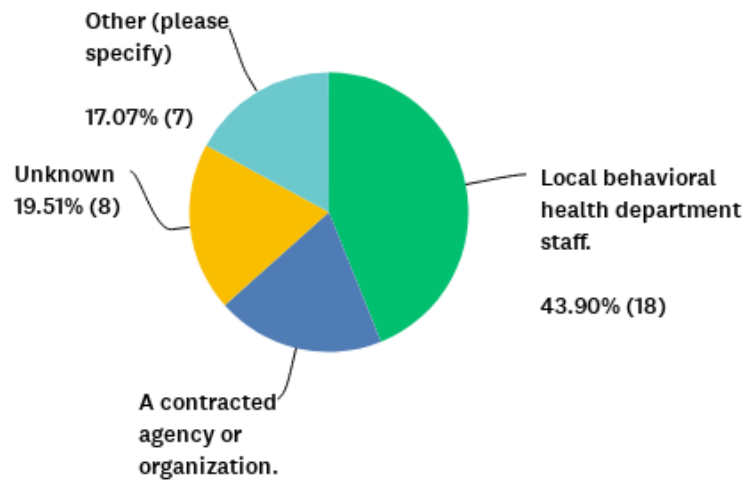


However, some answered that they did regularly receive patients' rights reports. The six counties (15%) that responded "Yes, but those reports DO NOT include patients' rights violations that occur in county jail facilities" were San Francisco, Contra Costa, Merced, Kings, Madera, and Santa Cruz, which range from small to large. Only three counties (7.5%) answered "Yes, and these reports include patients' rights violations that occur in county jails." Those counties were Plumas, Siskiyou, and Lassen, which are interestingly all "small rural" sized counties. How these reports may affect the relationship between the board/commission and patients' rights advocacy efforts in their counties is unknown, but the topic could be worth exploring in future survey efforts.

Question 6 (see pie chart below) is similar to Question 4, but instead asked boards/commissions who provides mental health services in jail facilities in their counties. Around 44% indicated "local behavioral health department staff," and about 20% answered "a contracted agency or department." Another 20% answered "unknown." Among the remaining boards/commissions who answered "other," written responses mostly indicated a mix of both

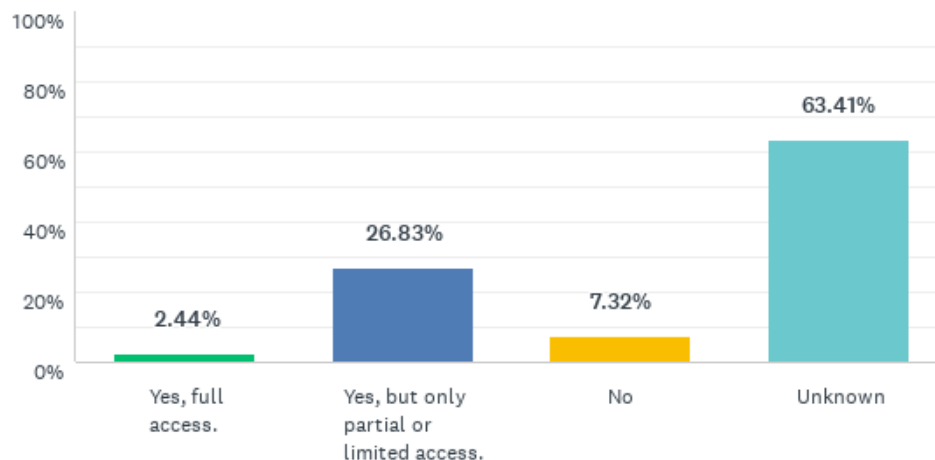
behavioral health department staff and contracted agencies or specified that services were provided via contracts with the sheriff’s department and not behavioral health.

Question 7: Who provides mental health services in jail facilities in your county?



Lastly, the boards/commissions were asked if PRAs in their county have access to county jail facilities, inmates, and inmate records. A clear majority (more than 63%) answered that they did not know. The next most common answer was “Yes, but only partial or limited access,” which made up 27% of responses.

Question 8: To your knowledge, do county mental health patients’ rights advocates (PRAs) in your county have access to county jail facilities, inmates, and inmate records?



From the PRC’s recent activities, the committee is aware that many PRAs struggle with obtaining full access to inmates in jail facilities so they can fulfill their duties. This question was included, in part, to raise awareness of it in the minds of the behavioral health boards/commissions who may not be aware that it is an issue at all.

Conclusion

This survey is meant to be a first step in exploring issues regarding patients' rights in county jails. By sharing this data with the boards and commissions, the PRC also aims to start a larger conversation about the work of patients' rights advocates, as well as patients' rights issues in California county jails. Patients' rights advocates safeguard the rights of mental health patients in California and are a vital part of the mental health system. As a group their duties and responsibilities have expanded significantly over the years, while at the same time PRA staffing has remained insufficient in many counties, posing significant challenges to often overburdened advocacy offices. This in turn negatively impacts mental health patients throughout the state. The more that we can support the work of PRAs and the work that they do, the better protected our mental health patients will be.

The appendix at the end of this report includes a brief overview of the duties and authority of mental health patients' rights advocates in California. It also includes a link to the 2017 white paper that the PRC released in coordination with CAMHPRA, which explores some of the challenges that PRAs face in their work.

Appendix: Patients' Rights Advocacy Information and Resources

The duties and authority of California county mental health patients' rights advocates are outlined in Welfare & Institutions Code §5200 and California Code of Regulations §863.2, and include but are not limited to:

- To ensure that information about patients' rights is posted in all facilities providing mental health services, and that all incoming clients and recipients of mental health services in all licensed health and community care facilities are informed of their rights.
- To receive and investigate complaints from or concerning patients about violations or abuse of their rights.
- To monitor mental health facilities, services, and programs for compliance with patients' rights laws, regulations, and policies.
- To train and educate mental health providers about patients' rights, laws, regulations, and policies and act as a consultant to staff in mental health facilities in the area of patients' rights.
- To advocate for patients and residents who are unable or afraid to register a complaint.
- To act as liaison between the advocacy program and the California Office of Patients' Rights.
- Many county Patients' Rights Advocates are also responsible for representing patients in certification review and/or capacity to give informed consent hearings.

County jail facilities that provide mental health services fall under the definition of "mental health facilities." Thus, the authority of PRAs extends to **any inmates receiving mental health treatment in jails**, and county PRAs have a right of access to jail facilities, jail inmates, inmate records, and jail employees providing mental health services.

The CBHPC Patients' Rights Committee, in collaboration with the California Association of Mental Health Patients' Rights Advocates (CAMHPRA), has published a white paper highlighting resource, training, and retaliation issues in county patients' rights programs in California. This paper can be accessed at: <https://www.dhcs.ca.gov/services/MH/Documents/Patients%27-Rights-Committee/PRA-Survey-White-Paper-FINAL.pdf>

Other links:

California Office of Patients' Rights (COPR): <https://www.disabilityrightsca.org/what-we-do/programs/california-office-of-patients-rights-copr>

California Association of Mental Health Patients' Rights Advocates: <https://www.camhpra.com>