

Michael St. Martin, CO#000414-3
Coalinga State Hospital
P.O. Box 5003, Unit #10
Coalinga, CA 93210-5003

www.voicesofthegulag.org
MichaelSt.Martin@Hotmail.com

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Re: CTU2008-0321-01

July 11, 2008

I, Michael St. Martin, submit the following response to The California Department of Mental Health's submission to the petition I filed on the Coalinga State Hospital (CSH) Administrative Directive 624.

ISSUE

On March 21, 2008, the Office of Administrative Law received a petition by me, Michael St. Martin, alleging that the Department of Mental Health (DMH) has issued, used, enforced, or attempted to enforce underground regulations. The alleged underground regulation is CSH Administrative Directive 624.

PROPOSED DETERMINATION

CSH Administrative Directive 624 is A REGULATION subject to the Administrative Procedures Act (APA).

BACKGROUND

Coalinga State Hospital was completed in 2005 at a cost of \$388 Million. It was designed to house the rapidly growing population of civilly detained sex-offenders who had completed their prison sentences but remained incarcerated as *Sexually Violent Predators*. Current resident population stands at approximately 750. State officials claim that the hospital provides treatment and does not constitute punishment.

Welfare & Institution Code § 4000 "Department"

"There is in the Health and Welfare Agency a State Department of Mental Health."

Welfare & Institution Code § 4001 "Definitions"

- (a) "Department" means State Department of Mental Health;
- (b) "Director" means the Director of Mental Health;
- (c) "State Hospital" means any hospital specified in section 4100

Welfare & Institution Code

§ 5400 “Director; Administrative duties; Rules and Regulations”

Welfare & Institution Code

§ 5750 “Promulgation of Rules and Regulations”

§ 5750 (c) (2) “The department shall continue during the period to involve the conference in the development of all regulations which affect local Mental Health programs, prior to the promulgation of those regulations pursuant to the Administrative Procedures Act.

Ms. Lee wants us to believe that the rules for mail and packages are unique to Coalinga State Hospital: that each rule which differs from its analogous rule at another such facility is unavoidably dissimilar. She fails to distinguish between the various hospitals and their allegedly “unique” requirements.

“Every state hospital is unique and as a result the administrative directives provide guidance for the unique situations, safety and security, physical space, and the ability for the staff to provide mail service.”

Really; how so?

HISTORY

Hospital administrators tasked newly arrived officers with the responsibility to write all of the Administrative Directives (ADs) for the institution, even though they had no experience or training with this function. They were told to “wing it.” The officers contacted other state hospitals and requested copies of their ADs. It was from this pool that the Coalinga State Hospital Administrative Directives were cut-and-pasted together. It was *ad hoc*; hardly the careful, unique, and specific method claimed by Ms. Lee.

AD 624 derives its putative authority from Special Order 248.01, an unpromulgated (underground) regulation applicable to all California Department of Mental Health state hospitals. The differences between them appear to be insubstantial, and Ms. Lee fails to list the requisite descriptive distinctions to which the department lays claim.

Compare Special Order 248.01 with AD 624. It gives the appearance of the same cut-and-paste method of all of Coalinga’s ADs. (Please see original submission.) We appreciate the “sameness” of both documents actually; their indistinguishable nature. Special Order 248.01 is in fact, without equivocation, **A REGULATION**, since DMH cannot possibly circumvent its universal application. But then, neither has it enjoyed the codification of the Office of Administrative Law.

THE SHELL GAME

In her response Ms. Lee makes the obvious link between AD 818 (Contraband) and AD 624 (Mail and Packages). If the institution is to control contraband then the mail must be inspected in order to prevent its introduction. As a result, the connection of 624 with 818 makes each argument applicable to 818 automatically relate to 624. It is this mutual interdependence between these three ADs: 818, 624, and 626, that makes this such a shell game. The department has historically favored this sleight of hand; their charges being typically diminished in capacity and unable to defend themselves. For the DMH it’s business as usual—delay, deny, and divert.

AD 624s justification does then, according to DMH, rely in large part upon AD 818. Should AD 818 be designated an “underground regulation,” and therefore illegal and unenforceable, does

