



C A L I F O R N I A   D E P A R T M E N T   O F

# Mental Health

1600 9th Street, Sacramento, CA 95814  
(916) 654-2319

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

Re: **CTU2008-0129-01**

The Department of Mental Health submits the following response to petition from Michael St. Martin.

## ISSUE

On January 29, 2008, the Office of Administrative Law (OAL) received a petition from Michael St. Martin alleging that the Department of Mental Health (DMH) has issued, used, enforced, or attempted to enforce underground regulations. The alleged underground regulations are provisions from the *Clinical Evaluator Handbook and Standardized Assessment Protocol* (2007) (*Protocol*).

## PROPOSED DETERMINATION

The Protocol as a whole and the specified provisions of the Protocol are not regulations subject to the Administrative Procedure Act (APA).

## BACKGROUND

California's Sexually Violent Predators Act (SVP Act), Welfare and Institutions Code section 6600 et seq., defines a Sexually Violent Predator (SVP) as a person "convicted of a sexually violent offense against two or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminally behavior." (Welf. & Inst. Code, § 6600, subd. (a)(1).) The SVP Act took effect on January 1, 1996. (Stats. 1995, ch. 763, § 3, p. 5922.) It provides for the involuntary civil commitment of certain offenders, following the completion of their prison terms, who are found to be SVPs.

The process for determining whether a convicted sex offender meets the SVP requirements takes place in several stages, both administrative and judicial. The California Department of Corrections and Rehabilitation screens inmates in its custody who are serving determinate prison sentence or whose parole has been revoked, at least six months before their schedule release dates. (Welf. & Inst. Code § 6601, subds. (a)(1),

