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Will Humble, M.P.H., Director
Arizona Department of Health Services
150 N. 18th Avenue
Phoenix, AZ 85007

RE: ANNUAL REPORT OF THE MARICOPA COUNTY HUMAN RIGHTS COMMITTEE

Dear Director Humble,

As provided under A.R.S. §41-3804(G) and Ariz. Admin. Code R9-21-105(O), the Maricopa Human Rights Committee ("the Committee") submits to you this letter as the Committee's 2012 Annual Report. The Annual Report which covers our work over the past year and provides an overview of our dedicated, if small, contribution to promoting the care of the seriously mentally ill in Maricopa County. Additionally, as we begin the New Year, it is our resolution to submit to you quarterly reports to document and demonstrate the Committee's work toward fulfilling its statutory mandate. We look forward to your response to your Annual Report and to our upcoming quarterly reports. Of course, the Committee as a whole and I, personally, are available as you may find useful to discuss any issue regarding our work. We would welcome the opportunity to better serve the Department in its work. We applaud your focus on outcome measurement and orientation to recovery principles.

Our Mission and Responsibilities. As set forth in A.R.S. §41-3803, human rights committees on the mentally ill (HRCs) were created by the Arizona Legislature within ADHS to "promote the rights of persons who receive behavioral health services." The Committee takes its Mission seriously; we regard the care of Arizona's mentally ill as fundamental to our state's public health; we regard care of the mentally ill who receive public benefits as essential for all Arizonans --- not just the mentally ill -- to live healthy, safe, productive lives. To fulfill its statutory mandate and mission, the Committee is given administrative responsibility to provide independent oversight and review of ADHS in six areas:

1. Allegations of illegal, dangerous, or inhumane treatment of clients and enrolled children;
2. Reports filed with the Committee under Ariz. Admin Code R9-21-203 and R9-21-204 concerning the use of seclusion, restraint, abuse, neglect, exploitation, mistreatment, accidents, or injuries;
3. Reports filed with the Committee under Ariz. Admin Code R9-21-203 and R9-21-204 to clients identified under R921-301 as in need of special assistance;

4. Violations of rights of clients and enrolled children and conditions requiring investigation under Magellan’s complaint process as set forth in R9-21-403 to R9-21-409.
5. Research in the field of mental health according to A.R.S. §41-3804(E)(2); and
6. Any other issue affecting the human rights of clients and enrolled children. Ariz. Admin. Code R9-21-105(G).

As discussed in more depth below, during 2011-12, the Committee examined its role and work in each of these areas as part of a new strategic plan and work focus.

Our Membership. The Committee is comprised of dedicated, hardworking volunteers who donate their time and perspective to promote the rights of the mentally ill and assure that all Arizonans have the opportunity to live healthy, safe, productive lives. Many Committee members have served for several years as reflected by their membership date. Each Committee member brings years --- decades, in fact --- of qualitatively different personal and professional experience with Arizona’s and Maricopa County’s mental health systems. The Committee’s work is supported by Magellan and Department of Behavioral Health Services staff.

Historically, finding qualified individuals to serve was problematic; however, with a renewed emphasis on recruitment, the Committee achieved a positive result as reflected in our increased membership during the past year. Table 1 shows the the current Maricopa County Human Rights Committee, which is comprised of twelve members consisting of two family members, three consumers, and others representing law, medical, health care and education.

TABLE 1 – Membership, 2012 MARICOPA COUNTY HUMAN RIGHTS COMMITTEE

NAME	AREA REPRESENTED	YEARS OF SERVICE ON COMMITTEE
Jessica Blaha	Peer Support	2
Craig Carter, Ed.D., Chair	Special education	8
Holly Gieszl, J.D. (private practice)	Criminal law; mental health law	2
Joy Green	Family Member	2
Scott Gormley	Family Member	< 1
Deborah Lewis, Ph.D.	Neuropsychology	2
Ron Mangoogian	Peer Support	2
Jack Potts, M.D.	Forensic psychiatry; corrections systems	14
Rodney Rodriguez	Peer support	<1
Rebekah Trexler, M.Ed	Probation; social services	5
Jeff Trollinger, MSW	Probation; mitigation; social services	12
Tammy Wray, J.D. (Public Defender)	Mental health law; criminal law; diversion	10

Setting Our Priorities. The statutory scope of work for Arizona’s HRCs is daunting and the effective execution of our work could be impossible given the volume of documents from Magellan and ADHS that the statute provides us *authority* to review. Determining what we need to review and *how we can and should conduct that review* has become of utmost concern. Our work is also complicated by

availability of adequate resources (staff and budget), lack of direction from ADHS as to its desired alignment of the Committee's work to the Department's, and ADHS and Magellan administrative requirements that the Committee formally "put in writing" beyond the Committee's minutes any requests for information from either the Department of Magellan. The lack of the mandated five human rights committees across Arizona is also troubling. This staggering array of challenges left many long time committee members with feelings of frustration and disillusionment regarding the effectiveness and capacity of the MHRC to committee to fulfill its statutory mandate and its relevance to AHDS and Magellan. One valued Committee member, who is a prominent disability advocate in Arizona and nationally, resigned in 2012.

In 2011-2012, the Committee "stepped back" and devoted its work in 2012 to building its membership and undertaking and implementing a strategic plan-to prioritize work at least short term. This effort to reshape the Committee's scope of work and focus is reflected in a separately transmitted letter to ADHS and Magellan, a copy of which is also attached. Briefly, as we move forward in 2013, the Committee will place greater emphasis on ADHS and Magellan providing the Committee with data on human rights violations *as identified within ADHS and Magellan review processes* and with specific focus on (i) identified clients with special assistance needs and (ii) continuity of care issues for individuals booked into Maricopa County jails. This focus not only meets the Committee's statutory obligation but permits examination through a focused sub-set of the process by which ADHS and Magellan monitor human rights and identify and investigate and resolved potential violations.

Looking Forward. While our focus is on human rights, I believe you will find that our work aligns with the Departments 2013-17 Strategic Plan, specifically, Goal 2 --- maintenance of a comprehensive, easy to access recovery-oriented behavioral health system that is outcome oriented and accountable to stakeholders. We applaud the Department's Strategy 1 (promote recovery, resiliency and psychological rehabilitation) and, specifically, Objective 1.4: "Increase jail diversion efforts and outcomes for adolescent and adult behavioral health recipients." We look forward to reviewing the performance measures on Objective 1.4 (number of mental health courts and drug courts statewide and the National Outcome Measures findings related to incarceration). Of course, we are keenly aware of the Department's plan to integrate behavioral health with primary care into Health Homes. We have reviewed the RFP and deliverables and identified areas that impact our statutory mandate and oversight responsibilities. We hope that human rights issues are addressed proactively in this process and in the new Health Homes; we look forward to working with the Department as appropriate to assure that happens.

Our 2011/2012 Accomplishments. The following reflect the Committee's major areas of focus and our accomplishments during the past year.

Focus Area 1 - Internal Strategic Planning and Capacity Building:

- Strategic planning process to:
 - identify priorities, and
 - develop/refine a pragmatic, workable action plan.
- Emphasize recruitment and added five new members.

Focus Area 2 - Oversight of issues affecting the human rights of clients and enrolled children:

- November 2011 - Letter to Jan Sweeney, Government Affairs Director Re: Statement of Opposition to Qualified Immunity Proposed Bill Amendment.
- February 2012 - Letter to the Joint Legislative Budget Committee Re: Governor Brewer's 2012 State of the Union Address for additional funding for the serious mentally ill.
- 2011/2012 Review of Pima County Human Rights Committee's site visit program and litigation regarding Arizona human rights committees' access to documents regarding the cause of death of seriously mentally ill patients receiving public assistance.

Focus Area 3 - Technology support for the Committee's work.

- Enhanced web site access and content for Committee members.
- Posting agendas and minutes online to better inform and engage the public.

Focus Area 4 - Analysis of reports of human rights practices by ADHS and Magellan.¹

- The Committee identified the principal constraint both to meeting its statutory obligations *and* aligning its work to support ADHS and Magellan: the lack of usable written reports from ADHS and Magellan about the process and actual work within ADHS and Magellan to identify, investigate, resolve, and report human rights violations. **The emphasis is on how potential violations are identified, handled, and the outcome.** Lack of data is *not* the issue; the constraint is lack of *readily available, usable reports* from ADHS and Magellan to facilitate the Committee's work in accordance with its statutory mandate.
- The Committee reviewed the deliverables for the State of Arizona's solicitation to create Health Homes to deliver primary care and behavioral health services when the current RBHA expires in October 2013. Areas that impact data required for the Committee to perform its statutory mandate were identified for monitoring and follow-up.

• **Focus Area 5** - Engagement and Support of Committee by the Community, ADHS, and Magellan.

- The Committee solicited input and education from a range of community and governmental officials to help the Committee understand ADHS and Magellan's internal processes to protect human rights and the available data and reports about those processes and results. Table 2 shows the Committee's self-education activities about ADHS and Magellan activities pertinent to the Committee's statutory responsibility.

¹ The Committee is mandated by statute and regulation to analyze certain reports: Ariz. Admin. Code R9-21-203 and R9-21-204 (use of seclusion, restraint, abuse, neglect, exploitation, mistreatment, accidents, or injuries); Ariz. Admin. Code R9-21-203 and R9-21-204 clients identified under R921-301 (special assistance clients); and Ariz. Admin. Code R9-21-403 to R9-21-409 (incidents requiring investigation under Magellan's complaint process).

TABLE 2 – COMMITTEE’S SELF-EDUCATION ACTIVITIES ABOUT ADHS AND MAGELLAN ACTIVITIES

DATE	INVITED PRESENTER	TOPIC OF PRESENTATION
March 7, 2012	Margery Ault, ADHS Branch Chief for Consumer Rights & Bureau for Quality Management Operations	Scope of work of ADHS departments as related to committee oversight of human rights
	Gowri Shetty, Magellan, Chief Quality Officer	Magellan Monthly and Quarterly QI Reports submitted to DBHS
April 4, 201	Shelley Curran, Magellan, Director of Court Advocacy and Review of Client Rights	Scope of work related to diversion
October 3, 2012	Norm Nigro, Magellan Grievance & Appeals Administrator	Scope of work related to grievance and appeals/investigation process
	Greta Mang- Magellan, Investigator	How grievance/complaint investigations are conducted
Karen Corallo Chaney, MD	Magellan Adult Medical Director	Meet and Greet

Our Recommendations. As the result of our work in 2011-2012, we included in this Annual Report six specific recommendations that we believe are essential at this time to promote the human rights of individuals who receive publicly funded behavioral health services in Arizona.

Recommendation 1. During Arizona’s transition to Health Homes to integrate primary care and behavioral health services, the Director of ADHS should:

- a. Appoint one representative from ADHS as a Health Home Liaison with the Committee in order to keep the Committee informed about how the Health Home(s) are monitoring, investigating, resolving and reporting potential human rights violations, and report to the Director the Committee’s concerns (if any) about human rights issues in the process of implementing Health Homes.
- b. Provide support to the Committee to convene “listening sessions” to solicit and hear public input regarding human rights issues of the mentally ill in the Health Home context. The Committee is unable to determine that any session regarding human rights issues was included in the Department’s efforts to “secure engagement and support of stakeholders and partners” to support its strategy to integrate physical and behavioral health services.

Recommendation 2. The Director of ADHS should direct the Bureau of Consumer Rights to create and staff the three currently non-functioning human rights committees for the State Hospital, Northern Arizona and Southeastern Arizona to ensure continuity of an oversight mechanism for all consumers of mental health services in Arizona.

Recommendation 3. The Director of ADHS should require the Bureau of Consumer Rights to submit and publicly post on the Department’s web site a biannual annual report of human rights and abuse/neglect complaints to include at a minimum:

- a. Total number of cases;
- b. Complaint type (physical, sexual, neglect, exploitation – peer to peer & client/provider)
- c. Number of cases resulting in a violation and summary data related to corrective action

Recommendation 4. ADHS should establish as a Department priority and pursue legislative action to design, fund, and implement a program to assure continuity of care and treatment planning for seriously mentally ill individuals both (i) at the point of entering and exiting the Maricopa County jail system and on release from jail or transfer to the Arizona Department of Corrections (ADOC), and (ii) release from ADOC within Maricopa County. At a minimum there needs to be an effective communication link reflecting treatment planning between the Maricopa County Sheriff’s Office (“MCAO”), the Arizona Department of Corrections (“ADOC”), DBHS and Magellan. This link should generate auditable results that are inmate specific. The Committee is committed to working with the Department to accomplish this recommendation.

Recommendation 5. ADHS should advocate for a legislative change that establishes a community based, effective oversight mechanism for jailed inmates with serious mental illnesses by including within applicable statutes the authority for ADHS to ensure that appropriate mental health standards are implemented and met on a continuous basis in the Maricopa County jails and ADOC. The Committee recommends two approaches for consideration: (i) establishment of a community based, state-wide Corrections Human Rights Committee specific to issues involving inmates with serious mental illness in county jail and ADOC with its membership drawn from State’s existing human rights committees and added participants from county sheriff’s departments, ADOC, and the general public.

Recommendation 6. Revise the Incident/Accident report form to permit the Committee to identify clients determined to be in need of special assistance. Adding a check box indicating the individual’s special assistance status would solve the problem. This form change would ensure that the Committee is fulfilling its’ responsibility to closely monitor this population and, if needed, request protected health information pursuant to ADHS/DBHS Policy and Procedures GA 3.8 on disclosure of confidential information to HRCs.

We extend our sincere appreciation to the staff of the Division of Behavioral Health Services and Magellan Health Services in support the efforts of the Committee. We deeply appreciate the staff assistance and guidance from Yisel Sanchez, ADHS, Office of Human Rights and Rose Gomez-Cox, Magellan, Ombudsman Office, Human Rights Liaison. We look forward to our continued partnership and to stronger alignment of our Committee’s work to further the mission of your Department in serving the mentally ill within Arizona.

Sincerely,



Craig Carter, Ed.D., Chair
Maricopa Human Rights Committee

Attachment: Letter – Information Request

c: Margery Ault, Division Chief, Bureau of Consumer Rights
Shawn Thiele, Magellan Health Services