maricopa county
Human Rights Committee
for the mentally ill

Craig Carter
craig.carter@wesdschools.org

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

Dear Mr. Humble,

This annual report presents our activities and achievements in 2013 in accordance with our duties and responsibilities in promoting the quality of care on behalf of the seriously mentally ill population in Maricopa County.

Our Mission

The Human Rights Committees (HRCs) were created by the Arizona Legislature to assist the Arizona Department of Health Services (ADHS) and the Regional Behavioral Health Authorities (RBHA) in promoting the rights of children and adults who receive publicly funded behavioral health services.

Our Responsibilities

The Maricopa Human Rights Committee is authorized by statute administrative rules and regulations; to discharge our responsibilities, we meet monthly and between meetings review the following items:

- Provide independent oversight and review of the public behavioral health system;
- Conduct site visits to behavioral health care facilities;
- Hear concerns of consumers and other interested parties;
- Review incident and accident reports and seclusion and restraint reports submitted by the RBH A;
- Express concerns and initiate investigations as needed;
- Make recommendations to ADHS and the RBH A regarding improving the delivery and quality of behavioral health services;
- Review and provide feedback about ADHS/Division of Behavioral Health Services (DBHS) policy and procedure;
- Conduct research in the field of mental health; and
- Address any other issue affecting the human rights of clients and enrolled children. Ariz. Admin. Code R9-21-105(G).

The Committee's ability to discharge its statutory responsibilities necessarily depends on access to timely, accurate, and useable information from ADHS and the RBHA and a cooperative relationship

with ADHS and RBHA staff. This Annual Report highlights a few 'big picture' issues to illustrate our concerns that our work is marginalized.

I. Membership

Human Rights Committees like the MHRC are made up of people who understand the needs of those with mental illness. Committee members are hard working volunteers who donate their time and perspective to promote and protect the rights of mentally ill Arizonans. The work of the committee is supported by Magellan and Department of Behavioral Health Services staff, notably the Division of Behavioral Health Services/Bureau for Consumer Rights/Office of Human Rights.

Finding qualified individuals to serve continues to be a challenge and an opportunity. During the past year, five Individuals representing important mental health constituencies and 32 years of collective service left the Committee.

Name	Area Represented	Years of Service
Deborah Lewis, PH.D	Neuropsychology	3
Ron Mangoogian	Consumer	3
Rebekah Trexler	Probation, social services	15
Tammy Wray	Mental health, criminal law, diversion	11
Rodney Rodriguez	Consumer	2

As of December 31, 2013, the MHRC has eight members as shown below.

Name	Area Represented	Years of Service
Jessica Blaha	Consumer	3
Craig Carter, Ed.D.	Special Education	12
Holly Gieszl, J.D.	Criminal law, mental health law	3
Joy Green	Family member	2
Scott Gormley	Family member	2
Jode Peary	Legal, Psychology	<1
Jack Potts, M.D.	Forensic psychiatry, corrections systems	15
Jeff Trollinger	Social services	13

II. Our Strategy-Driven Work in 2013 - 2014

As previously reported, in 2012 the Committee concluded a comprehensive strategic planning process which narrowed its focus attention for (at least) 2013 and 2014 on one sub-population within the SMI population: special assistance clients. These are, of course, the most vulnerable and service intensive SMI recipients. Additionally, the Committee's strategic planning process identified access to meaningful, useful data as a major constraint to its work. It also identified the need to reinstate its site visit program. Having a productive relationship with ADHS and Magellan (or its successor) was also a priority.

a. Magellan Successor. The Committee worked with Magellan throughout 2013. The Committee also proactively reached out and invited Dr. Charlton Wilson, Chief Medical Officer for Mercy Care to meet with the Committee and he graciously did so at our April 3, 2013 meeting. We regard his willing participation with optimism for a seamless transition to a new RBHA for the MHRC.

b. Data to Support Committee Functions. For the MHRC to meet its legislative obligations and to serve ADHS, the Committee must have accurate, timely, useable data. Overcoming barriers to getting such data from ADHS and Magellan Health Services consumed a majority of the Committee's time and efforts throughout 2013. We report mixed results in terms of (i) outcome (measured as receipt of useable data), and (ii) process (cooperation and assistance from ADHS and Magellan).

A useful example is Magellan's I/A/D Form. To date, data collection and analysis of the I/A/D form was compromised because the forms were handwritten (often illegible) and, in fact, different versions of the forms were in use across Magellan. Magellan's provider notice dated Jan 25, 2013, implemented a revised, computerized I/A/D form for all providers effective Jan 31, 2013. However, in early February 2013, Magellan reported that DBHS had determined that "this form does not contain final edits, as requested through the public comment review." DBHS Policy Office then implemented a public comment period, which ended on July 13, 2012.[1] It is now 18 months later, and there still is no revised I/A/D form.

c. **Site Visits.** In 2013, the Committee conducted 10 site visits to facilities that housed special assistance clients as listed on a roster which Magellan provided. Committee members unanimously deem these community-based visits to be critical to the Committee's ability to provide oversight based, in part, on "real life" field experiences at the micro level. Macro level data analysis is best left to other areas and experts. The Committee, obviously, does not suggest that micro level experiences represent a complete picture. These stories do, however, provide investigation and insight by an *independent* group. The value of the site visits was demonstrated by three facts: (i) the inaccuracy of the housing list for special assistance clients; (ii) documentation of sub-standard conditions and lack of active case management for residents at selected sites; (iii) response by sites visited.

(i) Accuracy of housing data. Many (approximately 25%) of the residents on Magellan's roster and which the Committee attempted to visit were no longer in residence and had not been for weeks or months. We believe the failure to have accurate basic data on a population considered to be the most needy and vulnerable to human rights violations is indicative of a systemic problem in the RHBA. The Committee is still unable to obtain accurate current housing assignment data for the special assistance population is concerning. We are appreciative that the Department has arranged a meeting in an effort to reach a solution.

(ii) Conditions observed. Without repeating the facts as reported in the Committee's minutes and reported to Magellan, significant concerns were identified at some facilities that the Committee visited. Specifically, Committee members met with special assistance recipients who were not receiving active case management including, notably, medical referrals and who lived in substandard conditions with poor daily supervision.

(iii) Reactions of Sites Visited. Perhaps most telling were the reactions by several of the sites, which the Committee visited. While most sites welcomed the Committee, and a few followed up with productive discussions, two sites made blatantly false reports of allegedly unprofessional conduct by site visit staff, including the Chair. Moreover, Magellan providers are not aware of the existence and function of Arizona's human rights committees. Additionally, ADHS needs to develop a response protocol to be used when sites that the Committee visited contact ADHS with

[1] The Committee did not receive notice of the public comment period and, thus, did not have the opportunity to provide input on a topic of keen interest to the Committee.

"allegations" about what took place. These issues be a future agenda item for the Committee to address and make recommendations to Department and the RBHA in the near future.

d. Unresolved Death Inquiry. The Committee has ongoing concerns that have not been been appropriately addressed by the Department involving the death of a non-SMI Client in spite of the Committee persistent efforts to seek the involvement of the Department. These concerns will be addressed to you in a separate letter.

III. Challenges and Opportunities in 2014 and Forward

The Committee identified four areas of critical importance to the Committee's ability meet its legislative responsibilities and serve ADHS. Each is discussed below.

A. Receipt of Data Electronically. The Committee has repeatedly requested assistance in receiving data in an electronic format. ADHS's response has been that the Committee must demonstrate that it can meet ADHS's security requirements. However, it should be noted that confidentiality standards are addressed in the Committee's policy/procedural manual. If there are additional requirements by ADHS we expect the Department to provide the guidance and the technical tools to implement. We remain hopeful that our upcoming meeting with the Department and Magellan will bring closure to this topic

B. Meaningful Participation -- Bureau of Consumer Rights. We understand the complexity and challenges faced by the Department in supporting the work of the Committee and we are appreciative of the HRC Coordinator's administrative support. However, we do not consider the HRC Coordinator's role as a management position with the expert knowledge or expertise to engage in meaningful and deep dialogue with the Committee to meet its legislative mandate to respond efficiently to issues.

Consequently, even simple questions become enmeshed in several "rounds" of Q&A between the Committee and ADHS --- arguably a waste of time for all concerned. The MHRC has not experienced the kind of collaborative relationships that it seeks with ADHS and as are intended by the statute.

Toward the goal of improving the collaborative relationship between the Bureau of Consumer Rights and the Committee we ask that you ensure that knowledgeable, management level staff attend committee meetings. Because both the Office of Human Rights and the MHRC share responsibilities on behalf of the special assistance population, we request that the Office of Human Rights serve as the Committee's direct liaison by having Dana Hearn in her role as lead advocate or an OHR advocate attend MHRC meetings.

Additionally, the Committee's productivity and mission may be enhanced with the creation of "internships" in fields related to mental illness and the SMI population through local universities. We believe the Committee's work offers an important basis for graduate students in fields like social work or psychology to gain experience in community-based, legislatively mandated oversight of behavioral health policy issues. We may propose amendments to the Committee's bylaws or otherwise develop a new program to incorporate graduate students in the Committee's work.

C. **Is the Human Rights Committee Model Viable in Arizona?** The Committee's sense is that the answer to this question is "yes" and we are committed to making it so. However, the Committee has acknowledged that its viability may depend on improved "inclusiveness" of the Committee's work within ADHS and greater responsiveness from ADHS to Committee requests in

the course of its work. Furthermore, perhaps it is time to revisit the statute and administrative rules governing human rights committees. We realize this process must be initiated at the legislative and state agency level that the Committee will actively advocate to take place.

Committee members' degree of commitment to human rights of the SMI population is deep and, therefore, rooted in doing work that is meaningful, not simply window dressing for a laudable statute that is compromised as implemented. To be viable as a policy tool, community-based committees must have defined goals, manageable tasks and dedicated members. The MHRC's strategic planning process addressed goals and defined its tasks. Our ability to sustain membership is threatened by the staffing issues described above which frustrated members, some of whom resigned. Additionally, there is an inadequate number of Human Rights Committees within Maricopa County. A.C.C. R9-29-105 (C) states:

> The director shall appoint the initial members to each regional committee and the human rights committee for the Arizona State Hospital. The Director shall appoint members to fill vacancies on a human rights committee, subject to the approval of the committee.

Based on the criteria of one HRC per 2,500 clients, Maricopa County needs seven more HRCs. We ask that you establish two additional committees by the end of 2014. This is realistic expectation if you invite the new RHBA to work with our Committee in a joint effort to recruit members. Toward that end, we request a scheduled meeting before the end of March with key representatives of the Department, the new RHBA, and the Committee.

We extend our sincere appreciation to the staff of the Division of Behavioral Health Services and Magellan Health Services in support of the efforts of the Committee. We look forward to our continued partnership. We look forward to addressing with you and the Department the question, "Is the human rights committee model viable in Arizona?"

Sincerely,

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

c: Nancy Barto, House of Representative
Ken Karrels, Chairperson, Pima County Human Rights Commitee
Laura Knaperek, Former Arizona State Representative
Ann Ronan, Arizona Center for Disability Law
Charlton Wilson, Chief Medical Officer, Mercy Care