

# EL DORADO COUNTY PROBATION DEPARTMENT

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**Joseph S. Warchol II**  
Chief Probation Officer

August 5, 2009

Hon. Suzanne N. Kingsbury  
Presiding Superior Court Judge  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

Supervisor Ron Briggs, Chairman  
El Dorado County Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667

Dear Judge Kingsbury and Supervisor Briggs,

Pursuant to Section 1203.74 of the California Penal Code, I am respectfully providing proper notice that the El Dorado County Probation Department is without the resources needed to meet the mandates for supervision of adult probationers, who have been placed under the supervision of the El Dorado County Probation Department. Further, the El Dorado County Probation Department is without the resources needed to meet the mandates required for Mental Health Services for the children detained at the Juvenile Hall located in Placerville, as well as the Juvenile Treatment Center located in South Lake Tahoe.

Section 1203.74 PC states, **“Upon a determination that, in his or her opinion, staff and financial resources available to him or her are insufficient to meet his or her statutory or Court ordered responsibilities, the Probation Officer shall immediately notify the presiding Judge of the Superior Court and the Board of Supervisors of the County, or City and County, in writing. The notification shall explain which responsibilities cannot be met and what resources are necessary in order that statutory or Court ordered responsibilities can be properly discharged”.**

It is in the opinion of the Chief Probation Officer of El Dorado County that specific mandates as outlined below are unable to be met due to lack of staff and financial resources. The Probation Department is unable to provide adequate Mental Health services at both the Juvenile Hall and the Juvenile Treatment Center. Based on workload indicators, the Probation Department is unable to provide adequate supervision of adult probationers, and will be placing at least 500 probationers in an “Administrative Bank Caseload”, without probation supervision.

**Supervision of Adult Probationers as mandated by the California Penal Code and ordered by the Superior Court:**

Pursuant to the California Penal Code, the Probation Officer is to comply with all orders of the Superior Court, and enforce all court orders related to the supervision of probationers. The Chief Probation Officer of El Dorado County is unable at this time to comply with all mandates related to the supervision of adult probationers as mandated by the Penal Code and Orders of the Superior Court.

**1203.12.** The probation officer shall furnish to each person who has been released on probation, and committed to his care, a written statement of the terms and conditions of his probation unless such a statement has been furnished by the court, and shall report to the court, or judge, releasing such person on probation, any violation or breach of the terms and conditions imposed by such court on the person placed in his care.

**1203.10.** At the time of the plea or verdict of guilty of any person over 18 years of age, the probation officer of the county of the jurisdiction of said criminal shall, when so directed by the court, inquire into the antecedents, character, history, family environment, and offense of such person, and must report the same to the court and file his report in writing in the records of such court. When directed, his report shall contain his recommendation for or against the release for such person on probation. If any such person shall be released on probation and committed to the care of the probation officer, such officer shall keep a complete and accurate record in suitable books or other form in writing of the history of the case in court, and of the name of the probation officer, and his act in connection with said case; also the age, sex, nativity, residence, education, habit of temperance, whether married or single, and the conduct, employment and occupation, and parents' occupation, and condition of such person committed to his care during the term of such probation and the result of such probation. Such record of such probation officer shall at all times be open to the inspection of the court or any other person appointed by the court for that purpose, as well as of all magistrates, and the chief of police, or other heads of the police, unless otherwise ordered by the court. Said books of records shall be furnished for the use of said probation officer of said county, and shall be paid for out of the county treasury.

Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his possession relating to such case.

**1203f.** Every probation department shall ensure that all probationers under active supervision who are deemed to pose a high risk to the public of committing sex crimes, as determined by the State-Authorized Risk Assessment Tool for Sex Offenders, as set forth in Sections 290.04 to 290.06, inclusive, are placed on intensive and specialized probation supervision and are required to report frequently to designated probation officers. The probation department may place any other probationer convicted of an offense that requires him or her to register as a sex offender who is on active supervision to be placed on intensive and specialized supervision and require him or her to report frequently to designated probation officers.

**Mental Health Services to Minors in Detention pursuant to Title 15 of the California Code of Regulations:**

**Section 1402. Scope of Health Care**

(2) Health care services which meet the minimum requirements of these regulations and be at a level to address acute symptoms and/or conditions and avoid preventable deterioration of health while in confinement.

**Section 1411. Access to Treatment**

The health administrator, in cooperation with the facility administrator, shall develop written policy and procedures to provide unimpeded access to health care.

**Section 1413. Individualized Treatment Plans**

(d) Program planning shall include pre-release arrangements for continuing medical and mental health care, together with participation in relevant programs upon return into the community.

**Section 1431. Intoxicated and Substance Abusing Minors**

(7) coordination with mental health services in cases of substance abusing minors with known or suspected mental illness.

**Section 1437. Mental Health Services and Transfer to a Treatment Facility**

The health administrator/responsible physician, in cooperation with the mental health director and the facility administrator, shall establish policies and procedures to provide mental health services. These services shall include, but not be limited to:

- (a) screening for mental health problems at intake;
- (b) crisis intervention and the management of acute psychiatric episodes;
- (c) stabilization of persons with mental disorders and the prevention of psychiatric deterioration in the facility setting;
- (d) elective therapy services and preventative treatment where resources permit;
- (e) medication support services;
- (f) provision for timely referral, transportation, and admission to licensed mental health facilities, and follow-up for minors whose psychiatric needs exceed the treatment capability of the facility; and,
- (g) assurance that any minor who displays significant symptoms of severe depression, suicidal ideation, irrational, violent or self destructive behaviors, or who is receiving psychotropic medication shall be provided a mental status assessment by a licensed mental health clinician, psychologist, or psychiatrist.

Mentally disordered minors who appear to be a danger to themselves or others, or to be gravely disabled, shall be evaluated pursuant to Penal Code Section 4011.6 or Welfare and Institutions Code Section 6551. The minor may be evaluated by licensed health personnel to determine if treatment can be initiated at the juvenile facility.

Absent an emergency, unless the juvenile facility has been designated as a Lanterman-Petris-Short (LPS) facility and minors meet the criteria for involuntary commitment under the LPS Act in Welfare and Institutions Code Section 5000 et seq., all services shall be provided on a voluntary basis. Voluntary mental health admissions may be sought pursuant to Penal Code Section 4011.8 or Welfare and Institutions Code Section 6552.

**Section 1439. Psychotropic Medications**

The health administrator/responsible physician, in cooperation with the mental health director and the facility administrator, shall develop written policies and procedures governing the use of voluntary psychotropic medications.

- (a) These policies and procedures shall include, but not be limited to:
  - (1) protocols for physicians' written and verbal orders for psychotropic medications in dosages appropriate to the minor's need;
  - (2) requirements that verbal orders be entered in the minor's health record and signed by a physician within 72 hours;
  - (3) the length of time voluntary and involuntary medications may be ordered and administered before re-evaluation by a physician;
  - (4) provision that minors who are on psychotropic medications prescribed in the community are continued on their regular medications pending re-evaluation and further determination by a physician.
  - (5) provision that the necessity for continuation on psychotropic medication is addressed in pre-release planning and prior to transfer to another facility or program; and,
  - (6) provision for regular clinical/administrative review of utilization patterns for all psychotropic medication, including every emergency situation.
- (b) Psychotropic medications shall not be administered to a minor absent an emergency unless informed consent has been given by the legally authorized person or entity.
  - (1) Minors shall be informed of the expected benefits, potential side effects and alternatives to psychotropic medications.
  - (2) Absent an emergency, minors may refuse treatment.
- (c) Minors found by a physician to be a danger to themselves or others by reason of a mental disorder may be involuntarily given psychotropic medication immediately necessary for the preservation of life or the prevention of serious bodily harm, and where there is insufficient time to obtain consent from the parent, guardian, or court before the threatened harm would occur. It is not necessary for harm to take place or become unavoidable prior to initiating treatment.
- (d) Assessment and diagnosis must support the administration of psychotropic medications. Administration of psychotropic medication is not allowed for coercion, discipline, convenience or retaliation.

**Section 1450. Suicide Prevention Program**

The health administrator, in cooperation with the mental health director and the facility administrator, shall develop a written suicide prevention plan, with policies and procedures to prevent and respond to crisis. Staff training shall include, but not be limited to, identification of minors who present a suicide risk, appropriate monitoring of their condition, necessary treatment and follow-up and emergency response protocols for self-injurious behaviors.

Pursuant to a recent memorandum of understanding between the Health Services Department, Mental Health Division and the Probation Department, the Juvenile Hall is provided the equivalent of a .6 FTE mental health worker, and the Juvenile Treatment Center is provided the equivalent of a .5 FTE mental health worker. A licensed psychiatrist provides a combined service of 6 hours per week to assess the need for and prescribe psychotropic medications for detained minors in custody. Although this level of service was agreed upon by both Mental Health and Probation, it was done so with the understanding that resources were being reduced. The minimum service level that would meet the mandates of Title 15, California Code of Regulations, is not provided in number of hours. However, due to the level of sophistication of the minors in custody, the level of mental health issues that exist with this population and the previous staffing provided by Mental Health, a return to the equivalent of one (1) FTE mental health worker at **each** facility is necessary to meet the mandates as outlined in Title 15, California Code of Regulations.

**Recommendation:**

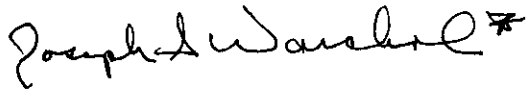
Based on the above information provided, the Juvenile Hall is presently receiving .6 Mental Health Clinician, and the Juvenile Treatment Center is presently receiving .5 Mental Health Clinician services. Due to the extensive mandated services as outlined in Title 15, California Code of Regulations, it is recommended that each facility receive funding for at least one FTE Mental Health Clinician at each juvenile facility.

Based on the above information provided, the existing average adult probation caseload is 236 probationers per one Deputy Probation Officer. Due to the inability of the Probation Department to meet the supervision mandates as outlined above, the Probation Department is placing a minimum of 500 adult probationers into an unsupervised "bank caseload". **It is anticipated that the number of adult probationers on the "bank" caseload will increase dramatically, and other mandates as ordered by the Superior Court (pursuant to the California Penal Code) will be adversely affected due to the reductions of staff caused by Tier I, II, and III staffing reductions.** These actions represent considerable liability to El Dorado County, the Board of Supervisors, and the Chief Probation Officer. The resources needed to eliminate the "bank caseload" would be at least three (3) additional Deputy Probation Officers.

Hon. Suzanne N. Kingsbury  
Supervisor Ron Briggs  
August 5, 2009

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Sincerely,

A handwritten signature in cursive script that reads "Joseph S. Warchol II" with a small asterisk-like mark at the end.

Joseph S. Warchol II  
Chief Probation Officer

c: Hon. James R. Wagoner, Presiding Juvenile Court Judge  
Hon. Kenneth J. Melikian  
Hon. Steven C. Bailey  
Hon. Daniel B. Proud  
Hon. Douglas C. Phimister  
Hon. Nelson Keith Brooks  
Hon. Stephen W. Valentine  
Hon. William Neil Shepherd

Supervisor John R. Knight  
Supervisor Ray Nutting  
Supervisor Jack Sweeney  
Supervisor Norma Santiago