

FILED

APR 20 2015

Original

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: HUNTER JOHN DOUGLAS  
(Last) (First) (Middle)

Prisoner Number: 725250

Institutional Address: SAN - QUENTIN PRISON  
100 MAN - ST / SAN - QUENTIN - CA 94974

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN D. HUNTER  
(Enter your full name.)

vs.

MIKE SOKOLOFF, INDIVIDUALLY  
M. HUTALA, INDIVIDUALLY  
(Enter the full name(s) of the defendant(s) in this action.)

(C 14 - 5031 JST (PR))

Case No. \_\_\_\_\_  
(Leave blank; to be provided by Clerk of Court)

COMPLAINT UNDER THE  
CIVIL RIGHTS ACT,  
42 U.S.C. § 1983

Amended Complaint

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement SAN - QUENTIN PRISON

B. Is there a grievance procedure in this institution? YES  NO

C. If so, did you present the facts in your complaint for review through the grievance procedure? YES  NO

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: By PASSES SEE ATTACH

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2. First formal level: By PASS

3. Second formal level: 39 HC 1203734 / medical - Exhibit B)  
Submitting 11-20-2012, Denial 1-9-2013  
12-03791 - 1-9-2013 - GRANTED IN PART (Exhibit - A)

4. Third formal level: Submitting 1-10-13 / Denial 7-24-13  
12-03791 - Denial 9-03-2013 (Exhibit A)

has  
case

B)  
A)  
Exhibit  
C

E. Is the last level to which you appealed the highest level of appeal available to you?  
YES  NO

F. If you did not present your claim for review through the grievance procedure, explain why.  
N/A

**II. Parties.**

A. Write your name and present address. Do the same for additional plaintiffs, if any.

John D. Hunter  
100 MAIN ST. / SAN-QUENTIN PRISON  
SAN-QUENTIN - CA 94974

B. For each defendant, provide full name, official position and place of employment.

MIKE SOKOLOFF, REGISTER NURSE, Employee  
(AT) SAN-QUENTIN PRISON

M. HUTAILA, correctional officer, Employee  
(AT) SAN-QUENTIN PRISON

1 **III. Statement of Claim.**

2 State briefly the facts of your case. Be sure to describe how each defendant is involved and  
3 to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If  
4 you have more than one claim, each claim should be set forth in a separate numbered paragraph.

4 (SEE ATTACHED)

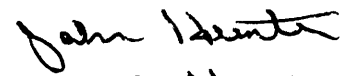
16 **IV. Relief.**

17 Your complaint must include a request for specific relief. State briefly exactly what you  
18 want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.

19 ATTACHED

24 **I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

25 Signed this 14 day of April, 2015

26   
27 John D. Hunter  
(Plaintiff's signature)

28 *Please continue to the next page.*

## STATEMENT OF FACTS

I.)

ON ABOUT 11-19-2012, I WAS BEING TRANSFERRED FROM SOLWA STATE PRISON TO SAN-QUENTIN PRISON WHILE IN SAN-QUENTIN (RTR) (OR) INTAKE UNIT LOCATED IN THE MEDICAL DEPARTMENT.

I WAS ESCORTED BY CORRECTIONAL OFFICER M. HUITALA TO A MEDICAL SWEETING ROOM IN WHICH A REGISTERED NURSE MALE WRITING NAME MIKE SOKOLOFF, TO CONDUCT AN INTERVIEW AND TO GIVE ME MY PRESCRIBED MEDICATION.

II. AS THE NURSE BEYOND THE INTERVIEW ONCE I WAS SEATED OFFICER M. HUITALA LEFT THE ROOM. BUT SAT SOMEWHERE OUTSIDE THE DOORWAY. DURING THIS INTERVIEW THE NURSE MIKE SOKOLOFF PRODUCED A BAG OF VARIOUS MEDICATION THAT HE SAID WAS FOR ME. SOME OF IT I DIDN'T RECOGNIZE. ANYWAY HE TAKES OUT OF THE BAG 3 CAPSULES OF DILANTIN, WHICH I DIDN'T RECOGNIZE, WHICH IS FOR MY SEIZURES PLACED THEM IN A CUP HE PROVIDED OUT OF HIS DESK, AND THEN PLACED THEM ON THE CORNER OF HIS DESK TOWARDS ME FOR ME

AS I WAS WAITING FOR HIM TO GIVE ME SOME WATER, SO I COULD PROPERLY TAKE MY MEDICATION, HE TELLS ME I HAD TO TAKE ALL THE MEDICATION, THAT HE HAD IN HIS POSSESSION, HE WAS REFERRING TO THE BAG OF MEDICATION (OR) TAKE NONE OF IT. I RESPONDED BY SAYING I'M ONLY TAKING MY DILANTIN, WHICH I IMMEDIATELY CONSUMED WITHOUT WATER, WHEN I TOOK THE CUP WITH THE 3 CAPSULES IN IT, THAT WAS PLACED BEFORE ME. WHEN I DID THAT, MIKE SOKOLOFF JUMP UP FROM HIS CHAIR AND STARTED CHOKING ME TRYING TO PREVENT ME FROM SWALLOWING THE PILLS. I JUST SWALLOWED WHILE I WAS STILL SITTING DOWN.

III THEN CONSTRUCTIONAL OFFICER HUTTALA RAN INTO THE ROOM AT WHICH TIME SOKOLOFF JUMPS (OR) FALLS BACK AS OFFICER HUTTALA CHOKES ME AND DOES THE SAME THING UNTIL HE SEES IT'S HOPELESS (OR) I SWALLOW THE PILLS, THEN PAYS MY HANDS OPEN, WHICH I OPEN VOLUNTARILY, WITHOUT RESISTANCE.

Being attacked while sitting down by  
both of these individuals has caused  
injury to my neck and lower back.  
and has caused mental/psychological  
damage. I have a right to take my  
prescribe medication, that's life threatening  
without being assaulted, by C.D.C  
employees. and I have a right to  
refuse any other medication at any  
time California Title 15 3351/3363 (SEE  
ATTN  
EXISTING)  
rules of regulation. (also) without  
being assaulted, as described herein.  
Then after the assault of my person  
they both conspired to give conflicting  
fraudulent reports and had me thrown  
(or) lock up in the hole for about  
5 to 6 months on assault on one  
of them, when no such assault occurred  
when I was assaulted, as alleged.

## LEGAL CLAIMS

PLAINTIFF RE-ALLEGES ANY INCORPORATED  
BY PARAGRAPHS I, II, III

1.) DEFENDANT M. HOTALA, USED EXCESSIVE FORCE VIOLATES PLAINTIFF'S RIGHTS CONSTITUTION, CANNOT ANY UNUSUAL PUNISHMENT UNDER THE 8TH AMENDMENT OF U.S. CONSTITUTION.

2.) DEFENDANT MIKE SOKOLOFF THE NURSE ALSO USED EXCESSIVE FORCE (ALSO) VIOLATES PLAINTIFF'S 8TH AMENDMENT

3.) BOTH DEFENDANTS VIOLATES PETITIONER'S 8TH / 14TH AMENDMENTS OF THE US CONSTITUTION, INCLUDING EQUAL PROTECTION UNDER THE LAW.

4.) PLAINTIFF HAS NO PLAIN, ADEQUATE (OR) COMPLETE REMEDY AT LAW TO REDRESS THE WRONG DESCRIBED HERE-IN.

~~5.)~~ PLAINTIFF SEEKS DECLARATORY RELIEF PURSUANT TO 28 U.S.C SECTION 2201 AND 2202.

## DEFENDANTS

DEFENDANT M. HUTALLA IS A CORRECTIONAL OFFICER OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS, WHO, AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF GUARD, ANY WAS ASSIGNED TO SAN - QUESTIN PRISON.

DEFENDANT MIKE (OR) MICHAEL SOKOLOFF IS A REGISTER NURSE OF THE CALIFORNIA DEPT OF CORRECTIONS WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT, HELD THE POSITION OF (R.N) ANY WAS ASSIGNED TO SAN - QUESTIN PRISON.

EACH DEFENDANT IS SUED INDIVIDUALLY ANY ~~IN THIS~~ ANY AT ALL TIMES MENTIONED IN ~~THIS~~ THIS COMPLAINT EACH DEFENDANT ACTED UNDER THE COLOR OF STATE LAW.

### EXHAUSTION OF LEGAL REMEDIES

PLAINTIFF JOHN D. HUNTER, USED THE PRISONER GRIEVANCE PROCEDURE AT SAN - QUESTIN TO TRY TO RESOLVE THE PROBLEM ON 11-25-2012 PLAINTIFF WAS SENT A RESPONSE SAYING THE GRIEVANCE WAS DENIED (SEE EXHIBIT A) THEN ON \_\_\_\_\_ PLAINTIFF APPEALED THAT DENIAL OF THE GRIEVANCE TO THE THING (OR) DIRECTOR'S FINAL LEVEL, WHICH WAS ALSO DENIED.



# JURISDICTION & VENUE

THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C. SECTION 1983 TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES.

THE COURT HAS JURISDICTION UNDER 28 U.S.C. SECTION 1331 AND 1343 (a)(3) PLAINTIFF SEEKS DECLARATORY RELIEF PURSUANT TO 28 U.S.C. SECTION 2201 AND 2202.

THE U.S. DISTRICT COURT, NORTHERN DISTRICT IS AN APPROPRIATE VENUE UNDER 28 U.S.C. SECTION 1391 b(2) BECAUSE IT IS WHERE THE EVENTS GIVING RISE TO THIS CLAIM OCCURRED.

## PLAINTIFF

\* PLAINTIFF, JOHN DOUGLAS HUSTEN, IS AND WAS AT ALL TIMES MENTIONED HEREIN A PRISONER OF THE STATE OF CALIFORNIA IN THE CUSTODY OF THE CALIFORNIA DEPT OF CORRECTIONS. HE IS CURRENTLY CONFINED IN SAN-QUESTIN PRISON IN SAN-QUESTIN - CALIFORNIA.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS  
THAT THIS COURT ENTER JUDGMENT GRANTING  
PLAINTIFF:

A.) A DECLARATION THAT THE ACT AND OMISSIONS DESCRIBED HEREIN VIOLATED PLAINTIFF'S RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES.

B.) COMPENSATORY DAMAGES IN THE AMOUNT OF \$ 250,000 AGAINST EACH DEFENDANT JOINTLY AND SEVERALLY

C.) PUNITIVE DAMAGES IN THE AMOUNT OF \$ 300,000 AGAINST EACH DEFENDANT.

D.) A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY.

E.) PLAINTIFF'S COST IN THIS SUIT

F.) ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER, AND EQUITABLE.

DATED: APRIL - 14TH - 2015

RESPECTFULLY SUBMITTED, BY

John Hunter  
John D. Hunter  
100 MAIN ST  
SAN-QUENTIN - CA  
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Verification

I HAVE READ THE FOREGOING COMPLAINT  
AND HEREBY VERIFY THAT THE MATTERS  
ALLEGED THERE-TO ARE TRUE, EXCEPT  
AS TO MATTERS ALLEGED ON INFORMATION  
AND BELIEF, AND AS TO THOSE, I BELIEVE  
THEM TO BE TRUE. I CERTIFY UNDER  
PENALTY OF PERJURY THAT THE FOREGOING  
IS TRUE AND CORRECT.

EXECUTED AT SAN-QUENTIN, CALIFORNIA  
ON APRIL - 14<sup>TH</sup> - 2015

John Hunter  
John D. Hunter  
Plaintiff (as pro-pen)

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**MAGISTRATE JUDGE JURISDICTION**

Please indicate below by checking **one** of the two boxes whether you choose to consent or decline to consent to magistrate judge jurisdiction in this matter. Sign this form below your selection.

**Consent to Magistrate Judge Jurisdiction**

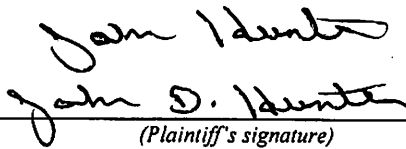
In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily **consent** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment.

**OR**

**Decline Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I **decline** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment.

Signed this 14 day of April, 2015

  
\_\_\_\_\_  
(Plaintiff's signature)

DECLARATION OF SERVICE BY MAIL  
BY PERSON IN STATE CUSTODY  
(C.C.P. §§ 1013(A), 2015.5)

I, JOHN D. HUNTER, the undersigned, declare:

I am over the age of 18 years, and I Am a party to this matter. I am a resident of SAN QUENTIN STATE PRISON, in the County of Marin, State of California. My Prison address is:

JOHN D. HUNTER

CDCR#: T25250, CELL#: 14-unit / #2-55  
SAN QUENTIN STATE PRISON  
SAN QUENTIN, CA 94974

On, April - 14th - 2015, I served the attached:

Amended Civil Rights Complaint 42 U.S.C 1983  
CASE # 14-CV-05031-JST

on the parties, at the addresses listed below, by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff) with postage fully prepaid, in a deposit box provided by San Quentin State Prison, for mailing in the United States Mail as per the regulations governing out-going Legal Mail.

ATTORNEY GENERAL

455 GOLDEN GATE AVE #11000

SAN FRANCISCO, CA 94102

UNITED STATES DISTRICT COURT

450 GOLDEN GATE AVE

SAN - FRANCISCO - CA 94102

I declare under the penalty of perjury, under the laws of the State of California, that all the foregoing is true and correct.

Executed on April 14 - 2015, at San Quentin, State California.

John Hunter

Declarant

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Exhibit

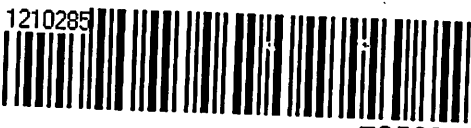
ROUGH

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Exhibit A

Side 1

1210285  T25250	Institution/Parole Region: <u>SQ</u>	Log #: <u>1203791</u>	Category: <u>Other</u>
	FOR STAFF USE ONLY		

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations, Title 15, Section (CCR) 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded. **WRITE, PRINT, or TYPE CLEARLY in black or blue ink.**

Name (Last, First): <u>HUNTER - John</u>	CDC Number: <u>T25250</u>	Unit/Cell Number: <u>A9-559-344</u>	Assignment: <u>0</u>
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State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Staff misconduct - Excessive force - Falsification of Report

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): 02-11-19-2012

at about 6:30 pm, while in the chain at the MTA office, I was ASSAULTED, ATTACKED and choked by R.N MIKE SOKOLOFF ~~with~~ First, which

B. Action requested (If you need more space, use Section B of the CDCR 602-A):

- ① A ~~total~~ complete investigation in this matter
- ② criminal prosecution (and assault charges filed)
- ③ other disciplinary action warranted by C.C.R.

Supporting Documents: Refer to CCR 3084.3.

Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

CDC 114-5 - Exhibit A  
CDC 7362 - Exhibit B

No, I have not attached any supporting documents. Reason: \_\_\_\_\_

Inmate/Parolee Signature: John Hunter Date Submitted: 11-26-12

By placing my initials in this box, I waive my right to receive an interview.

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**C. First Level - Staff Use Only**

Staff - Check One: Is CDCR 602-A Attached?  Yes  No

This appeal has been:

Bypassed at the First Level of Review. Go to Section E.

Rejected (See attached letter for instruction) Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_

Cancelled (See attached letter) Date: \_\_\_\_\_

Accepted at the First Level of Review.

Assigned to: \_\_\_\_\_ Title: \_\_\_\_\_ Date Assigned: \_\_\_\_\_ Date Due: \_\_\_\_\_

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: \_\_\_\_\_ (Interview Location: \_\_\_\_\_)

Your appeal issue is:  Granted  Granted in Part  Denied  Other: \_\_\_\_\_

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: \_\_\_\_\_ (Print Name) Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date completed: \_\_\_\_\_

Reviewer: \_\_\_\_\_ (Print Name) Title: \_\_\_\_\_ Signature: \_\_\_\_\_

Date received by AC: \_\_\_\_\_

BYPASSES

AC Use Only  
Date mailed/delivered to appellant \_\_\_/\_\_\_/\_\_\_

STATE OF CALIFORNIA  
INMATE/PAROLEE APPEAL FORM ATTACHMENT  
CDCR 602-A (08/09)

Side 1

IAB USE ONLY  1210285	Institution/Parole Region: <b>50</b>	Log #: <b>12-03791</b>	Category: <b>Other</b>
	FOR STAFF USE ONLY		

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): <b>Hunter - John</b>	CDC Number: <b>T25250</b>	Unit/Cell Number: <b>A0-508-344</b>	Assignment: <b>0</b>
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A. Continuation of CDCR 602, Section A only (Explain your Issue):  
 I continued only by the c/o M. Huttala, who came running into the MTA office who continued the choking until he discovered it wasn't warranted. I was unlawfully attacked with the use of force while in the MTA cause I decided to take my prescribe medicine called Dilanti, which is for seizures, and not take the other medication the MTA has for me that I don't take other than Dilanti. The MTA called Mike and words before he attack me was that I better take all the medication or I none of it, when I refuse to comply and only took my seizure meds, MTA Mike attack me choke me and cause damage to my lower back, took about 2 hrs later C.O. Huttala was coerced & believes by his Sgt to falsify a report about the incident (see exhibit A) that makes no mention of what occur and how (or) how I was attack (or) the confrontation / issue, but falsly charge me with assault claim I grab his arm - not mentioning they assault me.

Inmate/Parolee Signature: **John Hunter** Date Submitted: **11-25-12**

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 T N O M A R T S N J J A T S  
 INMATE APPEALS BRANCH  
 RECEIVED  
 JUN 10 2013  
 INMATE APPEALS BRANCH

B. Continuation of CDCR 602, Section B only (Action requested):

\_\_\_\_\_

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\_\_\_\_\_

Inmate/Parolee Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_



( Exhibit A )

# Memorandum

Date : January 8, 2013

To : Hunter, # T25250  
3C34, San Quentin

Subject: STAFF COMPLAINT RESPONSE - APPEAL # CSQ-2-12-03791

APPEAL ISSUE: Inmate Hunter alleged that Correctional Officer M. Hutalla and RN M. Sokoloff used excessive force during an incident in R&R on November 19, 2012.

DETERMINATION OF ISSUE: A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

- PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY
- REFERRED TO THE OFFICE OF INTERNAL AFFAIRS (OIA).

**SUMMARY FOR APPEAL INQUIRY:**

You refused to be interviewed on January 4, 2013.

**CHOOSE ONE:**

A Confidential Inquiry was conducted. The following witnesses were questioned: Correctional Officer M. Hutalla, RN M Sokoloff. The following information was reviewed as a result of your allegations of staff misconduct: SQP-002-12-11-0290, 7219 Medical Report of Injury, 602 log #CSQ-2-12-03791.

**FINDINGS FOR AN APPEAL INQUIRY:**

Your appeal is PARTIALLY GRANTED at the  First level  Second level:

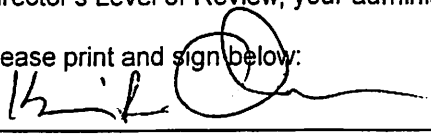
- An inquiry into your allegation has been conducted.
- An investigation is being conducted by the Office of Internal Affairs

ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE. As such, the details of any inquiry will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process. However, you have the right to be notified if after a review of your allegations, it is determined that staff violated CDCR policy. In this case:

- The inquiry is not yet complete
- The inquiry is complete. Staff did not violate CDCR policy.

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

Please print and sign below:



Kevin R. Chappell

1/28/13

Date

TREAT AS ORIGINAL

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PATIENT/INMATE HEALTH CARE APPEAL

CDCR 602 HC (REV. 04/11)

Side 1

STAFF USE ONLY Emergency Appeal <input type="checkbox"/> Yes <input type="checkbox"/> No	Institution: SQP-11	Log #: SQHC 12037347	Category: Medical
Signature: _____ Date: _____	FOR STAFF USE ONLY		

You may appeal any California Prison Health Care Services (CPHCS) decision, action, condition, omission, policy or regulation that has a material adverse effect upon your welfare. See California Code of Regulations, Title 15, Section (CCR) 3084.1. You must send this appeal and any supporting documents to the Health Care Appeals Coordinator (HCAC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY.

Name (Last, First): HUNTER - John	CDC Number: T25250	Unit/Cell Number: AD/SEC9	Assignment:
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State briefly the subject/purpose of your appeal (Example: Medication, To See Specialist, etc.):

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): ON 11-19-12  
 while in the medical office I WAS ASSAULTED / CHOKED BY  
 MIA MIKE CAUSE I TOOK MY PRESCRIBED MEDICATION DILANTIN  
 AND HE REFUSE TO GIVE ME MY NEW PRESCRIBED GIGCA. HE TOOK  
 MY 2 TAKE IT ALL ON NONE OF IT HAD 2 DONT TAKE  
 B. Action requested (If you need more space, use Section B of the CDCR 602-A):  
 1 TO REPORT HIS ACTION TO MEDICAL BOARD (CIC)  
 2 TERMINATE HIS EMPLOYMENT + OTHER DISCIPLINARY ACTION  
 3 TO RECEIVE MY MEDICATION IN LIEU OF DELIBERATE INDI...

STAFF USE  
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 JUL 2 2013  
 HC APPEALS

Supporting Documents: Refer to CCR 3084.3.  
 List supporting documents attached (e.g. Trust Account Statement; CDCR 7410, Comprehensive Accommodation Chrono; CDCR 7362, Request for Health Care Services; etc.):

No, I have not attached any supporting documents. Reason: NONE AVAILABLE

Patient/Inmate Signature: John Hunter Date Submitted: 11-20-12

By placing my initials in this box, I waive my right to receive an interview.

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached?  Yes  No

This appeal has been:

Bypassed at the First Level of Review. Go to Section E.

Rejected (See attached letter for instruction) : Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_

Cancelled (See attached letter): Date: \_\_\_\_\_

Accepted at the First Level of Review

Assigned to: \_\_\_\_\_ Title: \_\_\_\_\_ Date Assigned: \_\_\_\_\_ Date Due: \_\_\_\_\_

First Level Responder: Complete a First Level response. Include interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: \_\_\_\_\_ Interview Location: \_\_\_\_\_

Your appeal issue is:  Granted  Granted in part  Denied  Other: \_\_\_\_\_

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date completed: \_\_\_\_\_  
 (Print Name)

Viewer: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_

received by HCAC: 11/29/12

HCAC Use Only  
 Date mailed/delivered to appellant: 1/1

STATE OF CALIFORNIA  
PATIENT/INMATE APPEAL  
CDCR 602 HC (REV. 04/11)

DEPARTMENT OF CORRECTIONS AND REHABILITATION  
Side 2

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Health Care Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Patient/Inmate Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

E. Second Level - Staff Use Only Staff - Check One: Is CDCR 602-A Attached?  Yes  No

This appeal has been:  
 By-passed at Second Level of Review. Go to Section G.  
 Rejected (See attached letter for instruction): Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_  
 Cancelled (See attached letter): Date: \_\_\_\_\_

Accepted at the Second Level of Review  
Assigned to: Medical Staff Title: SRN II Date Assigned: 12/3/12 Date Due: 1/10/13  
Second Level Responder: Complete a Second Level response. Include interviewer's name, title, interview date, location, and complete the section below.  
Date of Interview: 12/10/12 Interview Location: BCD Clinic

Your appeal issue is:  Granted  Granted in part  Denied  Other: \_\_\_\_\_  
See attached letter. If dissatisfied with Second Level response, complete Section D.  
Interviewer: Aubrey Wade Title: SRN II Signature: Aubrey Wade Date completed: \_\_\_\_\_  
(Print Name)  
Reviewer: Andrew Deems Title: CEU Signature: Andrew Deems  
(Print Name)

Date received by HCAC: 11/28/12 HCAC Use Only Date mailed/delivered to appellant: 1/9/13

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Office of Third Level Appeals - Health Care, California Prison Health Care Services, P.O. Box 4038, 660 Suite 400, Sacramento, CA 95812-4038. If you need more space, use Section F of the CDCR 602-A.  
NOT SATISFIED FOR THE SAME REASONS, INDICATED (ALSO) THIS STAFF ACTIONS CAUSED INJURY TO MY NOSE AND BACK, WHICH I'M RECEIVING TREATMENT FOR.

Patient/Inmate Signature: John Hester Date Submitted: 1-10-13

G. Third Level - Staff Use Only

Rejected (See attached letter for instruction): Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_  
 Cancelled (See attached letter): Date: \_\_\_\_\_  
 Accepted at the Third Level of Review  
Your appeal is  Granted  Granted in part  Denied  Other: \_\_\_\_\_  
See attached Third Level response.

Third Level Use Only Date mailed/delivered to appellant: JUL 24 2013

Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Patient/Inmate Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_  
Print Staff Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_



3

# CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



JUL 24 2013

**Date:**

**To:** HUNTER, JOHN (T25250)  
California State Prison – San Quentin

San Quentin, CA 94964

**From:** California Correctional Health Care Services  
Office of Third Level Appeals - Health Care  
P.O. Box 588500  
Elk Grove, CA 95758

**Tracking/Log # :** SQ HC 12037347

This appeal was reviewed on behalf of the Deputy Director, Policy and Risk Management Services, by staff under the supervision of the Chief, Office of Third Level Appeals-Health Care. All submitted information has been considered.

**DIRECTOR'S LEVEL DECISION:**

Appeal is denied. This decision exhausts your administrative remedies.

**APPEAL ISSUES:**

You allege on November 19, 2012, you were assaulted/choked by Medical Technical Assistant (MTA) Mike, who also refused to give you your medication Celexa (citalopram) and are requesting for the MTA to be reported to the medical board and have his employment terminated, and to receive your medication in lieu of deliberate indifference.

**BASIS FOR DIRECTOR'S LEVEL DECISION:**

Your appeal file and documents obtained from your Unit Health Records were reviewed by licensed clinical staff. These records indicate:

- Although you have the right to submit an appeal as a staff complaint, any request for administrative action concerning staff is beyond the scope of the appeals process. It should be noted the appeal was reviewed and evaluated by the Hiring Authority and the issue was deemed not to meet staff complaint criteria.
- On November 19, 2012, while you were in Receiving and Release (R&R), a CDCR 837-A, Crime/Incident Report, demonstrates Registered Nurse Sokoloff, who you refer to in your appeal as MTA Mike, did not physically assault or inappropriately touch you in any manner during the incident; you are recorded as taking your medications, including citalopram, in R&R.
- Documentation indicates you are receiving your medications as currently prescribed.

After review, no intervention at the Director's Level of Review is necessary.

**RULES AND REGULATIONS:**

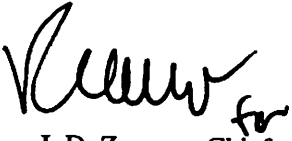
The rules governing these issues are: California Code of Regulations, Title 15; Inmate Medical Services Policies and Procedures; and the Department Operations Manual.

B

J.HUNTER, T25250  
SQ HC 12037347  
Page 2 of 2

**ORDER:**

No changes or modifications are required by the institution.



L.D. Zamora, Chief  
California Correctional Health Care Services  
Office of Third Level Appeals-Health Care

Exhibit B

1796906

HEALTH CARE SERVICES REQUEST FORM

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL  MENTAL HEALTH  DENTAL  MEDICATION REFILL

NAME: HUNTER - J CDC NUMBER: T25250 HOUSING: A9-506-344

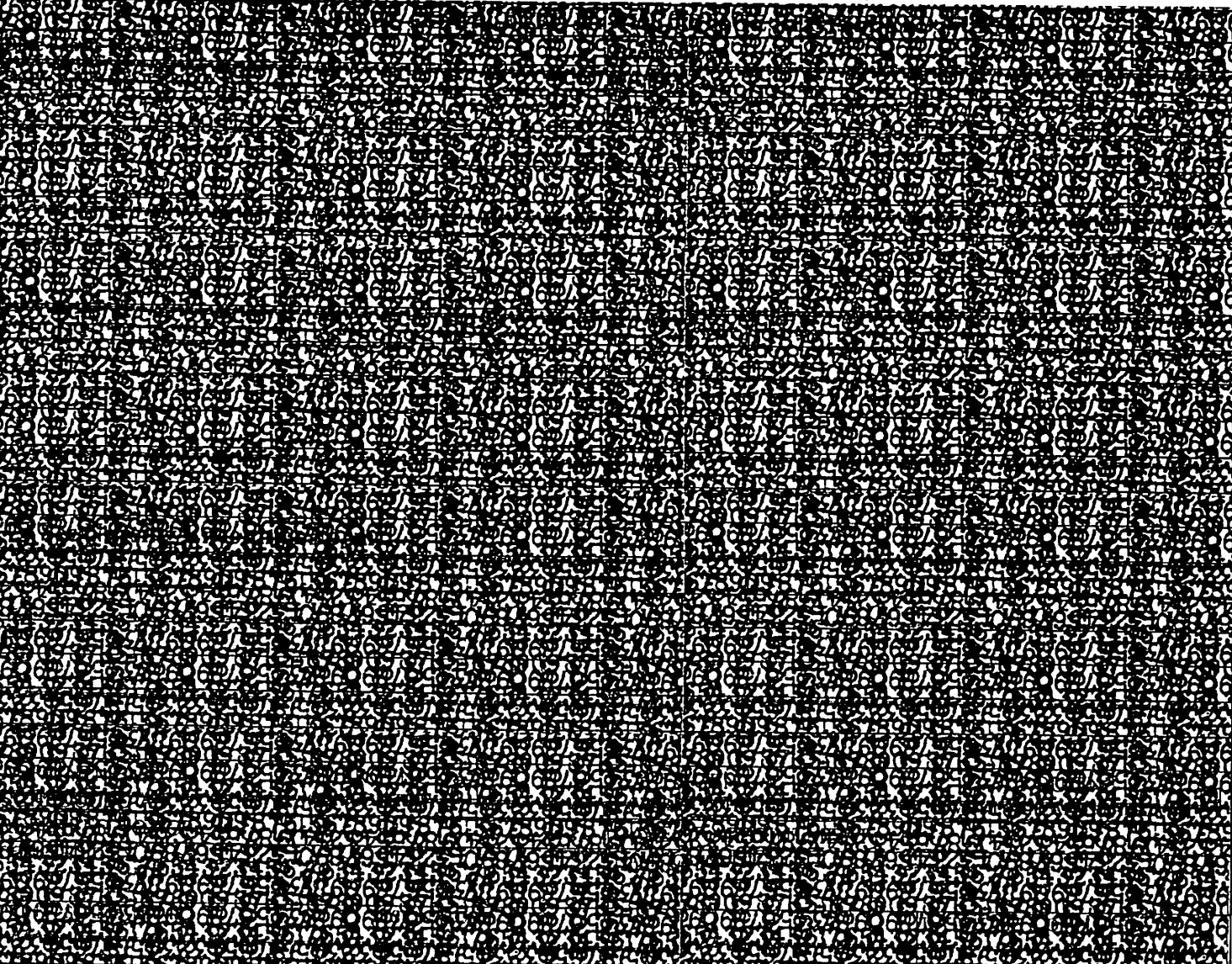
PATIENT SIGNATURE: [Signature] DATE: 11-26-12

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) MY LOWER BACK WAS INJURED ON 11-19-2012 WHEN I WAS UNLAWFULLY ATTACKED WHILE SITTING IN THE CHAIR IN THE MENTAL OFFICE AT 10:30 AM BY R.W. MIKE SOKOLOFF, WHO ATTACKED ME CAUSE I CHOOSE TO TAKE ONLY MY SEIZURE MEDICATION.

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)



NOV 29 2012

Exhibit F

TITLE 15

DEPARTMENT OF CORRECTIONS AND REHABILITATION

§ 3352

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

HISTORY:

1. New section, including relocation and amendment of old subsections 3350(a)-(c) to 3350.2(a)-(c), filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
4. New section, including renumbering of former subsection 3350(a)-(c) to 3350.2(a)-(c), filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).
6. Change without regulatory effect amending subsection (b) filed 8-11-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 33).

3351. Inmate Refusal of Treatment.

(a) Health care treatment, including medication, shall not be forced over the objections of: a mentally competent inmate; the guardian of a mentally incompetent inmate; or a responsible relative of a minor inmate, except in an emergency, or as required to complete the examination or tests for tuberculosis infection, or to implement the treatment for tuberculosis disease, or unless the provisions of Probate Code sections 3200 et seq. or the procedures set forth in *Keyhea v. Rushen*, Solano County Superior Court No. 67432, Order Granting Plaintiffs' Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986, hereby incorporated by reference, are followed. An emergency exists when there is a sudden, marked change in an inmate's condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others, and it is impracticable to first obtain consent. When an inmate has executed an advance directive, pursuant to Probate Code Sections 4600-4779 relating to the Durable Power of Attorney for Health Care, and Health and Safety Code sections 7185-7194.5 relating to the Natural Death Act, health care staff shall act in accordance with the provisions of that advance directive, as provided by law.

(b) An inmate may accept or decline any or all portions of a recommended dental treatment plan. The inmate's decision is reversible at any time and shall not prejudice future treatments. Refusals shall be documented for inclusion in the inmate's health record.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600, 5054, and 7570 et seq., Penal Code; Sections 3200 et seq., Probate Code; *Thor v. Superior Court* (Andrews) (1993) 21 Cal.Rptr.2d 357; *Keyhea v. Rushen*, Solano County Superior Court No. 67432, Order Granting Plaintiffs' Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986; sections 4600-4779, Probate Code; and sections 7185-7194.5, Health and Safety Code.

HISTORY:

1. Amendment of section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).

2. Amendment of section and Note filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of section and Note filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 8-8-95 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1-3-95 order including amendment of subsection (a) and Note transmitted to OAL 6-12-95 and filed 7-25-95 (Register 95, No. 30).
5. Amendment of section and Note refiled 8-7-95 as an emergency; operative 8-7-95 (Register 95, No. 32). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be transmitted to OAL by 1-16-96 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to emergency amendment filed 2-17-95 by operation of Government Code section 11346.1(f) (Register 96, No. 8).
7. Amendment of section and Note filed 2-21-96 as an emergency; operative 2-21-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-20-96 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 2-21-96 order transmitted to OAL 6-18-96 and filed 7-9-96 (Register 96, No. 28).

3352. Institutional Utilization Management Committee.

(a) An Institutional Utilization Management (IUM) committee shall be established within each facility. The committee shall meet as often as necessary to approve or disapprove requests for medical services otherwise excluded by these regulations, review and manage referrals for specialty medical services, review and manage institutional and community hospital bed usage, review other available utilization management data, and report requested utilization management data to the Headquarters Utilization Management (HUM) committee. Committee decisions concerning the approval or disapproval of requests for medical services shall be rendered within 21 calendar days of the request of the treating physician.

(b) The committee shall:

- (1) Consist of, but not be limited to, representatives from the health care staff of each institution.
- (2) Consist of not less than three staff physicians.

(c) Committee decisions concerning the approval or disapproval of requests for medical services otherwise excluded by these regulations shall be based on criteria established in Section 3350.1(d). Only licensed physicians may vote on the approval or disapproval of a request for medical services. Committee decisions shall be documented in the inmate's health record. Those cases that receive committee approval, shall be forwarded along with all supporting documentation to the HUM committee. The treating physician shall notify the inmate of the committee's decision.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5023.2 and 5054, Penal Code; and *Perez, et al. v. Cate, et al.*, USDC no. 3:05-cv-05241-JSW (No. Cal.).

HISTORY:

1. Amendment of section heading and text filed 7-2-93; operative 8-2-93 (Register 93, No. 27).
2. Amendment filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment filed 2-17-95 as an emergency; operative 3-1-95 (Register 95, No. 9). This regulatory action was deemed an emergency pursuant to section 5058(e) of the Penal Code and remains in effect for 160 days. A Certificate of Compliance must be trans-

(c) Recognizing that mental health care often involves revealing deeply personal and private matters, all mental health care shall be provided in such a manner as to maintain the dignity of the inmate. Professional relationships shall be conducted with proper privacy, with due regard for the professional to take necessary and appropriate action to prevent harm to the patient or to others. Records of mental health diagnosis, evaluation and treatment prepared or maintained by the department shall remain the property of the department and are subject to all applicable laws governing their confidentiality and disclosure. Treatment will be in accord with sound principles of practice and will not serve a punitive purpose.

NOTE: Authority cited: Sections 5058 and 5079, Penal Code. Reference: Section 5054, Penal Code.

**HISTORY:**

1. Editorial correction of printing error in subsection (a) (Register 92, No. 5).
2. Amendment of subsections (b) and (c) filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-3-95 order including amendment of section and Note transmitted to OAL 6-12-95 and filed 7-25-95 (Register 95, No. 30).

**3362. Availability of Treatment.**

All persons committed to the department shall be informed that mental health services are available to them. They shall be informed that, upon their request, an evaluative interview will be provided within a reasonable period of time by a licensed practitioner, or a specially trained counselor supervised by a licensed practitioner. Upon request, they will be provided with information as to what specialized treatment programs may be available in the department and how such treatment may be obtained.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

**3363. Right to Refuse Treatment.**

Inmates/Parolees shall be informed any time they are the object of particular mental health diagnosis or treatment procedures. Such persons shall have the right to refuse assignment to such a program of diagnosis or treatment without being subject to discipline or other deprivation, except as indicated in the following:

(a) When mental health evaluation is required by law or ordered by a court.

(b) When an inmate is placed in a mental health program for diagnostic study by the action of a classification committee, which acted upon documented information or observations that gave reasonable cause to believe the inmate was suffering from a mental illness which poses a danger to self or others, or is gravely disabled. A physician or other licensed practitioner may act in an emergency situation to place an inmate in psychiatric segregation under observation and treatment for a period of up to five working days pending classification action, providing the reasons for this action are documented.

(c) When diagnostic study has led to a diagnosis of existing or recurrent mental illness, which renders the inmate dangerous to self or others, or gravely disabled.

(d) If there is a special condition of parole requiring attendance at a parole outpatient clinic, interviews may be imposed upon the parolee. However, no medication will be administered by these clinics without the specific informed consent of the patient.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

**HISTORY:**

1. Amendment of first paragraph and subsections (b) and (c) filed 1-3-95 as an emergency; operative 1-3-95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 6-12-95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-3-95 order transmitted to OAL 6-12-95 and filed 7-25-95 (Register 95, No. 30).

**3364. Involuntary Medication.**

(a) If medication used in the treatment of mental disease, disorder or defect is administered in an emergency, as that term is defined in section 3351, such medication shall only be that which is required to treat the emergency condition and shall be provided in ways that are least restrictive of the personal liberty of the inmate. If it is determined that further administration of such medication involuntarily is necessary for a period of longer than 72 hours, the following provisions shall be followed:

(1) The administration of involuntary medication to inmates in excess of three days shall be in compliance with those procedures required in *Keyhea v. Rushen*, Solano County Superior Court No. 67432, Order Granting Plaintiffs' Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986.

(2) The administration of involuntary medication to inmates in excess of ten days shall be in compliance with those procedures required in *Keyhea v. Rushen*, supra.

(3) The administration of involuntary medication to inmates in excess of 24 days shall be in compliance with those procedures required in *Keyhea v. Rushen*, supra. The judicial hearing for the authorization for the involuntary administration of psychotropic medication provided for in part III of *Keyhea v. Rushen*, supra, shall be conducted by an administrative law judge. The hearing may, at the direction of the director, be conducted at the facility where the inmate is located.

(b) Involuntary antipsychotic medication shall not normally be administered to an inmate in his or her housing unit. An inmate shall normally be transferred to the hospital, clinic, emergency room or infirmary room at the institution prior to the administration of the medication. If a psychiatrist determines that the prior transfer of the inmate to such a setting would pose a greater risk to the inmate and staff than the risk involved to the inmate in receiving the medication in a non-medical setting, the involuntary medication may be administered in the inmate's cell, provided that:

(1) Medical staff shall alert security staff, orally and in writing, of the fact that such medication has been administered, of the date and time of administration, of possible side-effects, if any, which could develop, and shall provide security staff with instructions for contacting medical staff immediately upon the development of any such side effects. On-call medical staff shall make periodic observations of the inmate and shall respond to any emergency request for medical aid.

(2) In all cases where it is both feasible and medically desirable, a fast-acting medication shall be utilized to facilitate the inmate's rapid transfer to a medical setting.

(3) The inmate shall be considered for transfer from his or her cell to a medical setting at least once a day after the injection by a staff psychiatrist, or if a psychiatrist is not available by a staff physician, for the effective duration of the medication. The staff psychiatrist or physician shall note his or her observations and decision in writing. The inmate shall be transferred to a medical setting no later than 72 hours after the injection if the effective duration of the drug administered exceeds that time period.

(c) Each institution's chief psychiatrist, or in his or her absence, chief medical officer, shall ensure that a log is maintained in which is recorded each occasion of involuntary treatment of any inmate.