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NEW REPORT ON THE MHSA AND TRANSITION AGE FOSTER YOUTH: NEARLY 10 YEARS AFTER THE PASSAGE OF PROP. 63, IT IS UNCLEAR IF THE ACT IS ACHIEVING ITS PURPOSES AS VOTERS INTENDED

San Diego, CA: Today the University of San Diego School of Law's Children's Advocacy Institute (CAI) released a new report on Proposition 63, known as the Mental Health Services Act (MHSA). Approved by voters in 2004, the MHSA's purpose is "to reduce the long-term adverse impact on individuals, families and state and local budgets resulting from untreated serious mental illness." It promised funding for new and expanded programs, and contained a non-supplantation clause to guard the fund against being raided in tough economic times and to ensure funding was used only for the expressed purpose of creating new and expanded mental health programs in California. Finally, and importantly, the MHSA was unique in that it carved out Transition Age Youth (TAY) as a priority population, and required counties to use MHSA funding to create services for this population.

A 2010 CAI report analyzed the manner in which California counties were utilizing MHSA funding to serve arguably the most vulnerable subset of the TAY population — Transition Age Foster Youth (TAFY). That report noted that TAFY are highly at risk to develop the serious mental illness and serious emotional disorders that the MHSA seeks to define as a priority and address. TAFY also experience the negative outcomes that the MHSA seeks to prevent at rates far higher than TAY with no history of foster care. CAI's 2010 review of county MHSA plans revealed that the vast majority of California's counties failed to create programs to meet the specific needs of the vulnerable TAFY population.

The report released by CAI today, entitled ***Are They Being Served—Yet?***, notes that several changes have taken effect since CAI's 2010 report, both in California's child welfare system and in the state's mental health system. Notably, AB 12 passed in 2010, allowing foster youth to remain in care to age 21, and AB 989 passed in 2011, amending the MHSA to require counties to consider the needs of TAFY when creating plans for MHSA funding. "This specific instruction that counties give priority to the 'children of the state' who have been abused by judicially determined 'unfit parents' should have led to a paradigm shift away from the funding of longstanding mental health providers and business as usual to the assurance that counties were using MHSA funds to develop new, innovative and effective programs with sufficient capacity to meet the unique needs of transition age foster youth," explained CAI Executive Director Robert Fellmeth. "For example, it should have led to the funding of 'trusts' as allowed under California law, overseen by the judges who have been the legal parents of these children in conjunction

with an individual trustee/mentor/coach for each youth who would determine — with youth buy-in — how the funds would be used to help the youth achieve his/her personal goals to attain self-sufficiency; in other words, a program that replicates the parental guidance and support that these youth lack. That — or anything like it — has not happened.”

CAI’s new report notes that although some counties have made scattered attempts to pay more attention to TAFY, the overall focus remains on projects of suspect priority and the continued financing of pre-existing providers and programs. Moreover, the report notes that recent legislation moved much of the oversight and approval functions related to MHSA funding to the counties — where the creation of a floor of support and the achievement of self-sufficiency for TAFY is problematical. The report also discusses the impact of AB 100, enacted in 2011, which allowed the state to “shift” \$862 million from the MHSA-created Mental Health Services Fund on a one-time basis to existing mental health programs in an effort to address the state’s fiscal crisis, and how the Legislature and Governor claimed that AB 100 furthered the intent of the MHSA despite sound voter rejection of a similar proposal (Proposition 1E) in 2009. According to the report, such supplantation of dedicated funds from electorate intended new spending into preexisting recipients amounts to its diversion or cancellation — and is of questionable legality.

Today’s report also revisits ten 10 of the state’s counties to determine what, if any, progress they had made in light of these recent changes to California’s child welfare system and its mental health system. CAI looked at several factors to determine whether or not these counties were making appropriate efforts to consider the needs of TAFY throughout their MHSA planning process. Overall, the report found modest improvement in this regard — some of which is attributable to the recent *Katie A.* settlement which requires counties to improve their delivery of mental health services to all children and young adults in the child welfare system. Additionally, the report highlights some commendable efforts in several counties to reach out to TAFY and obtain their opinions and feedback throughout the MHSA planning process.

However, the report notes several problems with respect to the MHSA’s use to address the needs of TAFY. For example, the “priority” status warranted for TAFY remains lacking. “TAFY are not being effectively helped into adult self-sufficiency — notwithstanding their status as the most at-risk population in terms of mental health and as those with the first equitable claim on the state’s own resources,” noted Fellmeth. Also, counties differed in how or if they even track TAFY participation in MHSA programs. And finally, one glaring omission is common to nearly every county — a lack of meaningful long-term outcome studies that would allow the county and the state to evaluate the efficacy of MHSA-funded programs and gauge whether currently-funded programs are in fact meeting the purposes of the MHSA. “There is no way for the state or any county to claim that it is achieving the purposes of the MHSA (reducing the long-term adverse impact on individuals, families and state and local budgets resulting from untreated serious mental illness) if no information is gathered with regard to how participants (such as TAFY) are faring one, three, or five years after they participate in these programs,” said CAI Staff Attorney Melanie Delgado.

Among other things, the report recommends that each county have a TAY advisory board that includes a substantial number of TAFY, which the county must consult with throughout the MHSA planning, implementation, and evaluation process; each county must track TAFY utilization all MHSA-funded programs; each county must collect longitudinal outcome data on TAFY who participate in MHSA-funded programs; and an extensive independent audit must be conducted of the MHSA, use of MHSA funds, and the legality of recent amendments to the MHSA.

To view the report, visit CAI’s website at www.caichildlaw.org.