

THE VOICE OF LAW ENFORCEMENT, PUBLIC SAFETY & CONSUMER PROTECTION

# CALIFORNIA STATEWIDE LAW ENFORCEMENT ASSOCIATION

2029 H STREET, SACRAMENTO, CALIFORNIA 95811      WWW.CSLEA.COM

PH. 916.447.5262

800.522.2873

FAX 916.889.8289



November 19, 2014

Cliff Allenby  
Director  
Department of State Hospitals  
1600 9<sup>th</sup> Street  
Sacramento, CA 95814

Brandon Nishimura  
Public Records Act Coordinator  
Department of State Hospitals  
1600 9<sup>th</sup> Street, Room 433  
Sacramento, CA 95814

***Re: Cease and Desist Demand and Public Records Request; Subcontracting and/or Replacing of Unit 7 Positions with Private and/or Civil Security Guards***

Dear Director Allenby and Mr. Nishimura:

It has been brought to the attention of California Statewide Law Enforcement Association (CSLEA) that Department of State Hospitals (DSH) is considering contracting with a private security company to perform work at Napa State Hospital (NSH), work which is within the State Personnel Board (SPB) job specifications of the Hospital Police Officer classification and capable of being performed by such classification.

In particular, CSLEA has been notified that NSH is considering contracting with a private security company to transport patients off grounds. This is clearly a duty currently and adequately being performed by Hospital Police Officers. CSLEA understands that NSH is experiencing a staffing crisis and is looking at private security as a means of fixing the problem. As you are already aware, DSH has requested that the State provide a recruitment and retention differential to assist DSH in hiring and retaining Hospital Police Officers. In addition, it has been well established that NSH is understaffed by approximately 36 budgeted Hospital Police Officer Positions.

In 2007, NSH entered into agreements with two (2) private security companies to stand watch in the NSH kiosks seven (7) days a week from 2200 - 0600 hours. This was work that was historically performed by Hospital Police Officers.

As a result of NSH contracting with private security for work historically and adequately done by Hospital Police Officers, on July 27, 2007, CSLEA filed a Verified Petition for Alternative and/or Peremptory Writ of Mandate and Complaint for Declaratory Relief in Sacramento Superior Court. Shortly after the suit was filed, DSH (formerly Department of Mental Health) withdrew the contracts that were subject to the litigation.

CSLEA demands that DSH and NSH immediately cease and desist all action and correspondence concerning the potential and/or actual contracting with private security companies to perform duties that are currently and/or historically performed by Hospital Police Officers. Should DSH or NSH continue to pursue such private security contracts, in order to protect the jobs and duties of its members, CSLEA will file a suit similar to which was filed in 2007.

Instead of pursuing private security contracts, CSLEA implores DSH to focus its time and energy on getting CalHR and Finance to approve the Hospital Police Officer Recruitment and Retention Proposal and to allocate additional Hospital Police Officer positions at NSH. Failure to do this and rely on private security will surely put the patients, staff, officers, and community at risk and it is insulting to the Hospital Police Officers that their management believes their job can be done by private security guards.

The California Constitution, Article VII Section 1, prohibits the State from contracting with private entities to perform services civil service employees have historically and customarily performed. (See *Professional Engineers in California Government v. Department of Transportation* (1997) 15 Cal. 4th 543; *State Compensation Insurance Fund v. Riley* (1937) 9 Cal. 2d 126.) Not only have Hospital Police Officers historically performed such service, but they have done so adequately and competently.

In order for CSLEA to assess where DSH is at in this process, we are also making a Public Records Act Request. As cited in Government Code Section 6250, the California Legislature declared that access to information concerning the conduct of the State's business is a fundamental and necessary right of every person in this state. Therefore, pursuant to Government Code Section 6259 (California Public Records Act), CSLEA requests any and all documents and writings associated with Department of State Hospital's pursuit of contracting with a private security company for work

previously and/or currently performed by Hospital Police Officers. The requested records shall include, but are not limited, to the following:

- (1) Any and all correspondence between Napa State Hospital and/or Department of State Hospitals to or from any other entity regarding private security contracting at Napa State Hospital, or any other State Hospital;
- (2) Any and all correspondence between Napa State Hospital and/or Department of State Hospitals and any private security company;
- (3) All bid requests produced by Napa State Hospital and/or Department of State Hospitals associated with private security contracts which would impact duties that have historically been performed by Hospital Police Officers;
- (4) All bids that have been received by Napa State Hospital and/or Department of State Hospitals associated with private security contracting;
- (5) All contracts, either in draft or finalized form, that involve private security contracting;
- (6) Any and all correspondence between Napa State Hospital and/or Department of State Hospitals and Blacktalon Security Solutions regarding performing work at Napa State Hospital;
- (7) Any and all information identifying whether such private security would perform duties with firearms;
- (8) Any and all correspondence involving any and all State Hospitals and Department of State Hospitals regarding potential private security contracting of work currently and/or historically performed by Hospital Police Officers;
- (9) Any and all other documents that are not excluded from production to CSLEA pursuant to the California Public Records Act.

In accordance with Government Code Section 6253, a state agency must notify a requesting party in writing, within ten (10) days from receipt of a request, whether the requested documents will be provided. The agency must justify the denial of any of the requested documents by demonstrating that the document is exempt from the California Public Records Act. (See Government Code Section 6255.) Once validity is determined, the agency must promptly inform the requesting party of the time and date that the records will be disclosed.

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If the Department of State Hospitals or Napa State Hospital elects not to abide by this request, CSLEA will pursue the production of these documents through judicial means. Should the court determine that Department of State Hospitals improperly withheld any documents, the court must order the production of documents and award court costs and reasonable attorney fees. (See Government Code Section 6259.)

Thank you for your attention to this matter and please contact me if you would like to discuss this matter further or if there is anything we can do to assist the Department with the Recruitment and Retention proposal. I look forward to your response.

Sincerely,



Ryan W. Navarre  
Senior Legal Counsel  
California Statewide Law Enforcement Assn.

RWN/se

cc: CSLEA File # LR 2423-14N  
Luis Jimenez, President, HPAC  
Dolly Matteucci, Executive Director, Napa State Hospital  
Candace Murch, Chief Labor Relations Officer, Department of State Hospitals  
Kevin Hart, Chief of Law Enforcement, Department of State Hospitals - OPS  
Frank Parrish, Consultant, California Health and Human Services Agency