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## DHSS CANNOT HOUSE PEOPLE WAITING FOR PSYCHIATRIC EVALUATIONS IN JAIL AND MUST PROVIDE EVALUATIONS OUTSIDE API

ALASKA – There has been a victory for Alaskans with disabilities. One year after the Disability Law Center (DLC) sued the Department of Health and Social Services (DHSS) to end the practice of housing people in need of psychiatric evaluation in jail and emergency rooms while awaiting admission to API, Superior Court Judge William F. Morse has determined the practice causes irreparable harm and has ordered DHSS to create a plan for corrective action by December 5, 2019. The Order protects both the fundamental liberty rights and wellbeing of individuals with mental illness.

In the Order released yesterday, the Court determined that DHSS had “made no effort to take responsibility for the circumstances of the civil detainees before each reaches API” and that “despite the good intentions of DOC” patients housed in DOC facilities are “subjected to extraordinary conditions that amount to punishment.” Similarly, the Court found that those held in emergency rooms while awaiting admission to API, where many do not receive evaluations or treatment and are not free to leave, “suffer irreparable damage that increases each day.”

The Court acknowledge efforts to bring API back up to capacity but, having reviewed API admission reports over the last 8 months, discerned “little improvement.” Over the last eight months, 68 Alaskans were held for 10 or more days before they were admitted to API or their case was otherwise disposed of. Over the same period the Court and noted an increase in the number of persons held in DOC. In February 2019, that number was seven and, seven months later, in September 2019, it climbed to 18.

The Court made clear that DHSS has a statutory obligation to transport individuals “subject to an emergency ex parte order [...] immediately to the nearest evaluation facility.” Therefore, the Court has required DHSS to create a plan to be implemented in 90 days:

1. Providing evaluations outside of API, to determine if a person no longer meets criteria or could go to an alternate facility, for anyone stuck in a facility awaiting space at API;
2. Eliminating the practice of taking persons subject to evaluation orders to DOC when an evaluation facility cannot admit them (except in the rarest circumstances);
3. Ensuring transportation to an evaluation facility within 24 hours for any individuals already in DOC custody for whom criminal charges have been dropped.

Executive Director of the Disability Law Center of Alaska, David Fleurant, urges, “true reform will require a long-term solution: community-based treatment options that prevent psychiatric emergencies in the first place and relieve unnecessary pressure on API.”

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The Disability Law Center (DLC) is an independent non-profit law firm designated as the State of Alaska’s Protection and Advocacy (P&A) System, providing legally based advocacy to people with disabilities statewide.