Date: January 8, 2008

Item No. 3
File No. 06034

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- [x] **Complaint by: Jason Grant-Garza vs DPH-SF General Hospital**
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Completed by: **Frank Darby** **Date:** **January 2, 2008**

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

SUNSHINE ORDINANCE
TASK FORCE

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION
January 23, 2007

January 24, 2007

Jason Garza
1369 B. Hayes St.
San Francisco, CA 94117

Bertha Soldevilla-Dae, Case Manager
San Francisco General Hospital
1001 Potrero Ave, Bldg 20, Suite 2300
San Francisco, CA 94110

Re: Complaint #06034 filed by Jason Garza against the Department of Public Health-SF General Hospital for alleged denial of records

Based on the information provided to the Task Force from the complainant Jason Garza, respondent Bertha Soldevilla-Dae, San Francisco General Hospital, and hearing public comment, the following Order of Determination is adopted:

The Sunshine Ordinance Task Force finds a technical violation of Section 67.21 (b) of the Sunshine Ordinance against San Francisco General Hospital for failure to respond in a timely manner to the records request.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on January 23, 2007 by the following vote: (Craven / Cauthen)
Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams
Noes: Pilpel, Chan

Douglas Comstock, Chair
Sunshine Ordinance Task Force

cc: Ernie Llorente, Deputy City Attorney
Eileen Shields, DPH, Public Information Officer

Eileen Shields/DP. .FGOV
11/20/2007 02:27 PM

To SOTF/SOTF/SFGOV@S\ .\V
cc Bertha Soldevilla-Dae/DPH/SFGOV@SFGOV, Troy Williams/DPH/SFGOV@SFGOV
bcc
Subject Re: Hearing Reminder: SOTF November 27, 2007

Dear SOTF members:

We understand that this matter is being treated as a request for reconsideration by Mr. Garza. This is to inform the SOTF that the Department of Public Health and San Francisco General Hospital has reviewed this matter and has determined that in the absence of any new evidence, in light of there being no changes in material facts and nothing to warrant further hearing on this matter, we respectfully ask that you deny any reconsideration request and close out further deliberation on this complaint.

If the SOTF wishes to review previous documents, we would remind you that everything related to this complaint has been submitted previously. No staff from DPH or SFGH are planning to attend this hearing.

Whatever settlement the Department entered into this past year in connection with this matter did not create any new medical files relating to Mr. Garza. Mr. Garza has either been given or made available all of the records he is entitled to.

==================================

Eileen Shields
Public Information Officer
San Francisco Department of Public Health
101 Grove St., Room 316
San Francisco, CA 94102
Office phone: 415/554-2507
Cell phone/Pager: 415/370-3377

"jaygarza@pacbell.net" <jaygarza@pacbell.net>
11/17/2007 12:13 PM
Please respond to jaygarza@pacbell.net

To sotf@sfgov.org, jaygarza@pacbell.net
cc
bcc
Subject Response to your email dated 11/16/2007 re: Hearing Reminder

11/17/2007
Saturday, 12 noon

Dear Mr. Darby:

I am in receipt of your email (11/16/2007 re: Hearing Reminder) listing the date for the next meeting/hearing in front of the full task force. Interestingly, enough it states that I must be there and states the same for the other side. This is great 'eye-candy" however, how real, applicable or even true hope is offered? I am still awaiting the for the correct process as the below mentioned email states in referring forward the finding of "Official Misconduct" for their (the other side's willful failure to appear) malfeasance at the last hearing that was required. If this action is not done then I would demand that you treat me with same dignity (NOT HAVING TO FOLLOW THE LAW) as you have so far allowed for the other side. What I mean is that I am offended by language in the email (presence required) if it is untrue, un-punishable and the other side can be unaccountable as the last hearing so far proves! This does however open the commission to an ethical review for procedures set, rules set, laws set and not followed. Unless of coarse that this has been correctly and legally attended to since last I wrote, correctly that is. What I mean in specific is that a finding has been found of Official Misconduct and has been sent to all applicable agencies and that it's recent occurrence/action has not allowed you to inform me. (Just happened … no time)

Please be aware that I will show for the hearing; however, I am demanding to know the consequence of willful failure to show in the last hearing (as requested by the below email) and what the consequence will be if they (the other side) does not show up … before, I go to this hearing. This important question was deferred last time (you'll find out at the hearing and did not!) and as such this critical question/responsibility will not be this time since I am specifically once again asking before. There will be no open possible denial trial left since I am asking the question prior and am showing the handling of the prior time (still awaiting a finding of Official Misconduct for not showing and process as stated/required by law) … still awaiting response.

Mr. Darby, the concept and principle of Sunshine is moot if the law is not followed. If as this particular incident prove that there is no consequence then the entire procedure is a sham which must then be examined as to purpose, scope and most of all accountability. Please call me ASAP, or as soon as you receive this email so it s that we can discuss this matter, I can follow up on the prior consequence and procedure, and most of all if appropriate … include this in the packet to go in front of the commissioners for resolution and mandate.

Lost in the land of Shadows … looking for SUNSHINE,

Still more of the same and STILL THE LIVING DEAD …

Jason Grant Garza
Oren Jude's Nonliving Soulmate

Original Message:

From: jaygarza@pacbell.net jaygarza@pacbell.net
Date: Fri, 16 Nov 2007 12:18:31 -0500

To: sotf@sfov.org, jay_ _rza@pacbell.net
Subject: Required Action by Mandate and SOTF hearing.

11/16/2007

Dear Mr. Darby:

As you know from the hearing on November 14th, the other side was not present nor make any indication as such (speak up) as required by law! You told me that this issue would be brought up at this hearing and quite to my surprise it was. Before my agenda item came up … two other agenda items failed to have the other side's representative available. To this I gave much public comment over what the law specifically stated and required your commission to do. It was suggested that the commission upon hearing and noting the failure to write a letter to the board of supervisor's president (Peskin) whose own department failed to show. This brought up the fact of unclean hands, bad faith, and conflict of interest. However, it DID NOT follow the law as it is written in the ordinance. Therefore, as required by the ordinance, please forward a finding of "Official Misconduct" regarding all the other side that was to appear and if they did failed to make their presence noted to the Attorney General, District Attorney, and Ethics Commission as required by law! This law is specific as was my comment in stating that it shall …not may … legal terminology that makes it a mandate. Please make aware to the other side that since their blatant disregard for the law was noted … this will particular incident (not showing or indicating that they were present) will be forwarded as required by law. Please let the other side know that the hearing has been sent back to the full task force and if they wish to ignore their duties in representation then that too will be forwarded.

Please contact me ASAP regarding the full task force meeting, send me a copy of the finding ("Official Misconduct") regarding the above mentioned incident and a copy of where the commission followed its own rules and mandates (Official Misconduct SHALL be …) in forwarding this to the correct agencies for proper process. Anything short of NOT following the proper mandate would be unethical.

Still more of the same and STILL THE LIVING DEAD,

Jason Grant Garza

Oren Jude's Nonliving Soulmate

Original Message:

From: jaygarza@pacbell.net jaygarza@pacbell.net
Date: Fri, 9 Nov 2007 10:33:48 -0500
To: sotf@sfgov.org, jaygarza@pacbell.net
Subject: FW: CAC Hearing Scheduled: November 14, 2007 (my response)

11/9/2007

Dear Mr. Darby:

Thank you for the e-mail below that was sent regarding the upcoming meeting. I however, wish to document our conversation as of yesterday, and if I am incorrect, please email me and correct my assessment. In our conversation, I specifically asked what was the consequence if the other side did not appear as their response seemed to indicate. To this you informed me that at the hearing the matter would be addressed. I asked how could this procedure exist after 20 years in Sunshine? Had it never occurred before ... how could it be good policy to have an ineffective rule/law if there were such apparent loopholes? This entire debacle speaks to the illusion of proper management while being false in the hope that it

might provide a soluti... for the injured party much les.. proper sunshine or accountablity or even a deterent (punishment) for not complying. These are the same individuals who have city/government protection (free legal representation) while the citizens who they have a duty to are left to "turn in the wind!"

Please be aware that these facts in addition to all the facts (deception, fraud,lies, etc) that my case presents is precisely the reason hope, honor and dignity CANNOT occur in this deliberate disfunctional system. Please be aware that under Official Misconduct that the city attorney is pursuing against Supervisor Jew to the Ethics Committee ... the same defintion applies here and as such I demand that that these (all) individuals involved stand before the ethics committee and that their (ethics committee) previous failure (Nurse Ratched letter not Official Misconduct) be re-examined.

Please email me back if I got anything wrong and please send me a copy of policy regarding willful failure to comply as required by the ordinance/law.

Just more of the same and STILL THE LIVING DEAD,
Oren Jude's Nonliving Soulmate
Jason Grant Garza

Original Message:

From: SOTF sotf@sfgov.org
Date: Thu, 8 Nov 2007 11:21:03 -0800
To:
Subject: CAC Hearing Scheduled: November 14, 2007

This is a reminder that a hearing has been scheduled with the Compliance and Amendments Committee of the Sunshine Ordinance Task Force, to discuss the status of the Order of Determinations on the following complaints:

#07040 & 07042_Dr. Ahimsha Sumchai and Francisco DaCosta vs Supervisor Sophie Maxwell

#07057_Jeff Ente vs. Supervisor Aaron Peskin

#07061 & 07062_Library Users by Peter Warfield vs SF Public Library

#06034_Jason Garza vs. DPH-SF General Hospital (OD Reconsideration)

#07056_Myrna Lim v. Ethics Commission

#07060_Alex Clark v. PUC

#07068_Maxine Doogan v. DA

#07073_Russell Albano v. DHR-Workers Comp. Division

#07074_Russell Albano v. SFFD

Date: Wednesday, November 14, 2007
Location: City Hall, Room 406
Time: 4:00 p.m.

To access the agenda please click on the link below. Then click on the associated item number to access the material related to your item.

http://www.sfgov.org/site/sunshine_page.asp?id=70798

Frank Darby, Administrator
Sunshine Ordinance Task Force

1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
SOTF@SFGov.org
OFC: (415) 554-7724
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307

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mail2web.com - What can On Demand Business Solutions do for you?
http://link.mail2web.com/Business/SharePoint

----
mail2web - Check your email from the web at
http://link.mail2web.com/mail2web

----
mail2web - Check your email from the web at
http://link.mail2web.com/mail2web

"jaygarza@pacbell.net" <jaygarza@pacbell.net>

10/21/2007 10:03 AM

Please respond to jaygarza@pacbell.net

To sotf@sfgov.org, bevan.dutty@sfgov.org, bertha.soldevilla-dae@sfdph.org, jaygarza@pacbell.net

cc

bcc

Subject November 14, 2007 Rules and Compliance Comittee Meeting

History: This message has been replied to.

10/21/2007

Sunshine Complaint and Follow up File # 06034

Sunshine Commissioners and Frank Darby:

Please review the below follow up and schedule a hearing in front of the Rules and Compliance Committee for November 14, 2007. Please pull your file regarding this case, the prior paperwork submitted, and note all the time, effort and consequence. Please have and make aware all the individuals listed below so that they are required to show at the commission and respond to the facts submitted. These were all directors and officials acting in their capacity and as such I am requesting that their conduct, materials provided, and the responsibilities required be examined for "Official Misconduct"..

SF General Hospital
Dr. Mitchell Katz (DPH), Gene O' Connell (Hospital Administrator), Allison Moed & Bertha Soldevilla-Dae (Risk Management) & Mr. Hiroshi Tobubo (Quality Control), and whoever signed off for the hospital on my Licensing and Certification Investigation where further fraud was committed.

Subjects/Questions/Actions to be reviewed:
Regarding "Risk Management", Fraudulent Representation, Garbage In = Garbage Out, Creation of false alternative paper trail for use, Sunshine Spirit (Truth being brought forward), "Official Misconduct Charges, Obscuring and Misleading the commission regarding records and accuracy and truthfulness of such records, Word playing games to hid the truth and consequence, and all the immoral and unethical implications by an organization whose chief duty is medicine to do no HARM?

The purpose of this commission is that Sunshine may be shined upon details and records. Open and transparent government means accurate and correct information and no word playing games as to definitional meaning. What is apparent is that the hospital broke the law, lied and covered up for it, created a false and inaccurate paper trail with the commission's blind blessings and now the purpose, spirit and intent of this commission must be examined. How many other word playing games have been orchestrated upon the commission which willy-nilly accepts paperwork and statements without checking the veracity or accuracy that do not reflect the truth and the only transparency that remains is the sham and illusion? If the evidence is fixed and NOT QUESTIONED how can sunshine work? If as now, the commission is made aware of the shenanigans and illegal tactics used … what is the point if the false paper trial is or was used to deceive in court or any other investigations or hearings? Examine all … question all … is that not the purpose of sunshine?

What is also apparent is the deliberateness, willfill, and spiteful ways the hospital denied the truth and this institution had an oath to do NO HARM! What is more sinister is that all that had to be said was that it was a medical decision and that would end all conversation. Was it a medical decision to lie? Was it a medical decision to put the victim, this commission, and these commissioners at a disadvantage even in sunshine by committing fraud? The ethics, professional duties and responsibilities, and capacity of these individuals should be examined for "Official Misconduct"

and all other lawbreak..g activities that they might fa.. under. Since their mentality was "to take no prisoners" even to the end since this (continued investigation/ followup) is only happening because of me even after they a signed settlement agreement … I am demanding that the same "measurement" be applied against them. I do not have a duty to them instead and quite to my detriment; they had a duty to me, failed in performance, and then to add insult to injury lied, committed fraud and perjury and now afterwards … it is I who have to "clear the record"? The lack of humanity, dignity, common respect mixed with unaccountable responsibility has created the perfect storm. The attempt at fraud, deceit, and nonperformance was skillfully lied to … what is the consequence?

Commissioners, I propose a grand idea … we'll call it the Oren Jude Amendment. As Oren would state "Words are Meaningless" unless intent and definition is examined. As such my (Oren Jude) amendment would sideline all of you powerless commissioners (until you receive power) since by not stepping aside the way of deceit, treachery, and fraud have been pointed out and shall be recreated by this culture of corruption (those in government that can lie and deceive). What will sunshine do upon these characters and their misdeeds, malfeasance, and "Black hole" of reality? The sun shines here, the truth is here but what is the point if you (the commissioners) don't get the point? I have many meaningless words (Prior Sunshine Determinations) … a Nurse Ratched letter … and the reality that I have not been helped by this commission … rather unclear and quite DIM to me since I am unfortunately the victim … here sunning sunshine in on your process, its stumbling blocks, and where the errors can occur in such a system that seeks style (paperwork was submitted … they said so) instead of substance (accuracy of said submittance). Where is the penalty of perjury clause in these cases … where is the verification of accurate and correct statements … and where is the spirit of sunshine if darkness has no consequence?

Instead what you have inadvertently done (hopefully not on purpose) has been to further hurt me, taken my time and precious effort, and lay "powerless" to affect change and no more reoccurance. Stand for sunshine, stand for truth, and while you are powerless (this commission) step aside, protest, and do not continue this farce until by legislation or vote you get the power necessary to enforce. Otherwise as Oren says … WORDS ARE MEANINGLESS! We have the perfect storm … government employees protected by the government (governmental immunity) and window dressing commissions to the illusion of fairness and truth with their false sunshine. WE DO NOT HAVE TRUTH … WE DO NOT HAVE SUNSHINE … IF DARKNESS IS ALLOWED!

Please take to heart these serious matters, push up to the "Ethic Committee" official misconduct charges, and vote on my Oren Jude Amendment to step aside until you are granted legal power. If not, you will do to others what you have done to me since you cannot logically expect the other side to change since it is the perfect storm. To be more precise look at the actions of the other side especially NOW after a signed settlement agreement … let's sun some sunshine in on that. This might just prove a black heart instead of a red face. NO PRISONERS. … NO HOPE … NO CONSEQUENCE. Don't enable the perfect storm (they will always be there) just let there be consequence with sunshine because this is what happens without consequence.

Please contact me ASAP regarding the November 14, 2007 Rules and Compliance meeting that I want these issues to be addressed at and "Official Misconduct" charges referred to the "Ethics Commission" for proper redress and consequence.

Still the living dead,

Jason Grant Garza
Oren Jude's Nonliving Soulmate
415-368-7551 jaygarza@pacbell.net

P.S. Note Attachment (Settlement Agreement)

----
mail2web - Check your email from the web at
http://link.mail2web.com/mail2web

SF Gen.pdf

SETTLEMENT AGREEMENT

I. Recitals

1. Parties. The Parties to this Settlement Agreement (Agreement) are the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) and San Francisco General Hospital Medical Center (Respondent).

2. The Hospital is a Participating Provider. Respondent is a participating hospital that has entered into a provider agreement under section 1866 of the Social Security Act (Act) and has an emergency department.

3. Description of Section 1867 of the Act. The Emergency Medical Treatment and Labor Act (EMTALA) requires that a participating hospital with an emergency department must provide, upon request, an appropriate medical screening examination, within the capability of the hospital's emergency department, to determine whether an emergency medical condition exists, as defined in section 1867(e)(1) of the Act. 42 U.S.C. § 1395dd. If an individual has an emergency medical condition, the hospital must provide, within the capabilities of the staff and facilities available at the hospital, treatment to stabilize the condition, unless a physician certifies that the individual should be transferred because the benefits of medical treatment elsewhere outweigh the risks associated with transfer. If a transfer is ordered, section 1867(c) of the Act requires that the transferring hospital provide stabilizing treatment to minimize the risks of transfer. A receiving hospital that has specialized capabilities may not refuse to accept an appropriate transfer of a patient who requires such capabilities. 42 U.S.C. § 1395dd(g).

4. Description of Civil Monetary Penalty. Section 1867(d)(1)(A) of the Act provides that "[a] participating hospital that negligently violates a requirement of this section is subject to a civil money penalty of not more than $50,000 (or not more than $25,000 in the case of a hospital with less than 100 beds) for each such violation."

5. Covered Conduct. The OIG conducted an investigation regarding allegations that Respondent had violated section 1867 of the Act. Based on its investigation, the OIG concluded that Respondent violated the requirements of section 1867 of the Act on April 22, 2001, when J.G. presented to San Francisco General Hospital for evaluation and treatment of a medical condition. J.G. was in acute emotional distress and wanted medical treatment. Respondent failed to provide an appropriate medical screening examination to determine if J.G. was suffering from an emergency medical condition. (Covered Conduct). This Agreement resolves the OIG's investigation pertaining to this violation.

6. Admission of Liability. This Agreement is an admission by Respondent that it did not provide J.G. with an appropriate medical screening examination on April 22, 2001.

7. Intent of Parties to Effect Settlement. In order to avoid the uncertainty and expense of litigation, the Parties agree to resolve this matter according to the terms and conditions delineated below.

II. Terms and Conditions

8. Payment. Respondent agrees to pay to the OIG $5,000.00 (Settlement Amount). This payment shall be made in the form of a certified or cashier's check, made payable to the Secretary, United States Department of Health and Human Services. Respondent shall make full payment no later than the Effective Date of this Agreement.

9. Release by OIG. In consideration of the obligations of Respondent under this Agreement and conditioned upon Respondent's full payment of the Settlement Amount, the OIG releases Respondent from any and all claims or causes of action against Respondent for civil monetary penalties or other action under section 1867(d)(1) of the Act, 42 U.S.C. § 1395dd(d)(1), for the Covered Conduct. The OIG and HHS do not agree to waive any rights, obligations, or causes of action other than those specifically referred to in this Paragraph. This release is applicable only to Respondent and is not applicable in any manner to any other individual, person, partnership, operation, or entity.

10. Release by Respondent. Respondent shall not contest the Settlement Amount under this Agreement and any other remedy agreed to under this Agreement. Respondent waives all procedural rights granted under the Civil Monetary Penalties Law or EMTALA (42 U.S.C. §§ 1320a-7a and 1395dd), related regulations (42 C.F.R. Part 1003), and the HHS claim collections regulations (45 C.F.R. Part 30), including but not limited to notice, hearing, and appeal with respect to the Settlement Amount.

11. Reservation of Claims. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Respondent) are the following:

a. Any criminal, civil, or administrative claims arising under Title 26 U.S. Code (Internal Revenue Code);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory and permissive exclusion from Federal health care programs; and

d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct.

12. Binding on Successors. This Agreement shall be binding on Respondent and the heirs, successors, assigns, and transferees of Respondent.

13. Costs. Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

14. No Additional Releases. This Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against any other person or entity.

15. Effect of Agreement. This Agreement constitutes the complete agreement between the Parties. All material representations, understandings, and promises of the Parties are contained in the Agreement. Any modifications to this Agreement shall be set forth in writing and signed by all Parties. Respondent represents that this Agreement is entered into with the advice of counsel and knowledge of the events described herein. Respondent further represents that this Agreement is voluntarily entered into in order to avoid litigation, without any degree of duress or compulsion.

16. Execution of Agreement. This Agreement shall become effective (i.e., final and binding) upon the date of signing by the last signatory and upon receipt by the OIG of complete and full payment of the Settlement Amount as required in Paragraph 8. The date the Agreement becomes effective is the Effective Date.

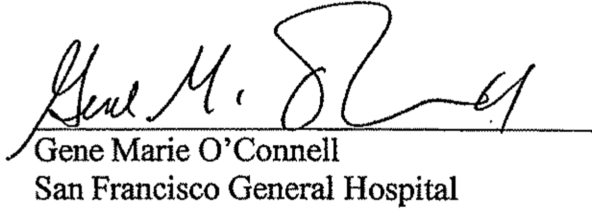
17. Disclosure. Respondent consents to OIG's disclosure of this Agreement, and information about this Agreement, to the public.

18. Execution in Counterparts. This Agreement may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement.

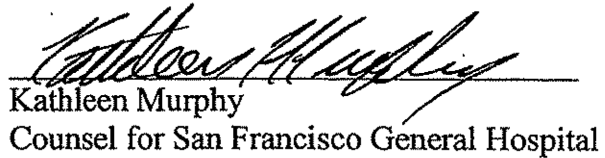
19. Authorizations. The individuals signing this Agreement on behalf of the Respondent represent and warrant that they are authorized by Respondent to execute this Agreement. The individuals signing this Agreement on behalf of the OIG represent and warrant that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

RESPONDENT

4/19/07
Date

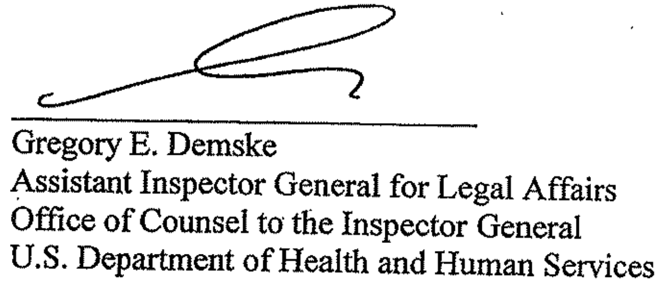

Gene Marie O'Connell
San Francisco General Hospital

4/19/07
Date


Kathleen Murphy
Counsel for San Francisco General Hospital

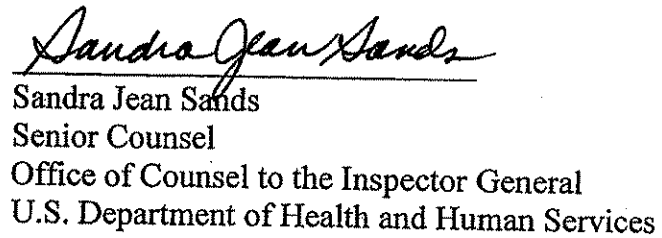
OFFICE OF INSPECTOR GENERAL

4/20/07
Date



Gregory E. Demske
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

4/11/07
Date



Sandra Jean Sands
Senior Counsel
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

Arturo Garza
<arturo2245@yahoo.com>

10/22/2007 09:23 AM

To sotf@sfgov.org, helynna.brooke@sfdpg.org, bevan.dufty@sfgov.org, arturo2245@yahoo.com, jbpowell73@comcast.net

cc

bcc

Subject Fwd: Please notice the pattern.

History: This message has been forwarded.

10/22/2007

Dear Sunshine Commissioners, Frank Darby, Helynnna (Director of Mental Healh Board), bevan dufty, and Mr. Powell:

Please read the attached. Include in your file for the requested hearings (at SOTF and Mental Health Board).

Jason Grant Garza
Oren Jude's Nonliving Soulmate
415-922-7781 jaygarza@pacbell.net

--- Arturo Garza <arturo2245@yahoo.com> wrote:

> Date: Wed, 13 Jun 2007 10:24:21 -0700 (PDT)
> From: Arturo Garza <arturo2245@yahoo.com>
> Subject: Please notice the pattern.
> To: jbpowell73@comcast.net, jaygarza@pacbell.net,
> troy.williams@sfdph.org
>
> 6/13/2007
>
> Mr. Powell:
>
> Please note that I have attempted to also send a
> copy
> of this email to Troy Williams @ SF General ...
> 206-4018.
>
> Please look and carefully read the attachments.
>
> Also FYI: Patient Advocacy at SF General is Under
> Risk
> Management (should I connect the dots) interestingly
> enough.
>
> How does the fable/nursery rhyme go? ... My what a
> wicked web we wieve when we intend to decieve? Just
> a
> passing thought in someone who has an Adjustment
> Disorder.
>
> Please feel free to call.
>
> Jason Grant Garza
> 415-368-7551
>
>
>
>

> Be a better Globetrotter. Get better travel answers
> from someone who knows. Yahoo! Answers - Check it
> out.

City and County of San Francisco

Departn
Pu

San Francisco General
Medica

May 4, 2001

Jorge Garza
1369 B Hayes Street
San Francisco, CA 94117

Subject: Complaint

Dear Mr. Garza,

I have investigated your complaint and the facts showed that you refused to leave the Sallyport area of Psych Emergency. The officer who responded to the call to the Sally port area had to persuade you to leave the area, this was at 11:45pm on April 22, 2001.

At 12:10 am, the same officer was dispatched to the Main Lobby regarding a man calling 911 and talking incoherently. The officer saw you talking on a pay phone. You hung up the phone and started yelling at the officer. You refused to leave the area. The officer arrested you for trespassing. When you were being booked, the officer found a small amount of marijuana in your possession. This was an added charge. You claimed to have a prescription for the marijuana, however, the officer did not see a prescription.

It is my conclusion based on the available information that this officer did not violate any departmental rules in the performance of his duties. Therefore your complaint is unsubstantiated.

If you have any questions, you may contact me at (415) 206-8063.

Sincerely

Thomas Wright
Captain, Institutional Police

1001 Potrero Ave., San Francisco, CA 94110

11/28/2001

Thomas Wright, Captain
Institutional Police
1001 Potereo Avenue
San Francisco, CA 94110
415-206-8063

Re: Complaint Investigation and Findings.

Dear Captain Wright,

I apoloize for taking so long to respond to your letter dated May 4, 2001. I have been and am still in crisis and have had to de other agencies. Thank you very kindly for writing me back a letter documenting your interpertation of what happened.

Unfortunately, the records and tapes will disprove your accessment while concurrently showing this investigation as prelimina perfunctory. As a captain of institutional police, I am sure that proper investigative procedure is something that you are quite fa your letter you state that the officer was dispatched to the Main Lobby regarding a man calling police emergency and talking i **Would not the first step in any investigative procedure be to get the audio tape and review it? Incoherent = disordered, unconnected,inharmonious; or characterized by an inability to think or express thoughts in a clear or orderly manner. I done or acting routinely and with little interest or care.** Please be aware that I have a copy of the audio tape and you'll be ha the dispatcher informed me 4xs that the institutionalized police were part of the SFPD...but am sure you already knew that. ***Inco*** according to your accessment (and quite amazingly if you asked me) I asked (**repeatedly**) the operator #43 if the institutionaliz part of the the SFPD for **"I wanted a SFPD officer dispatched to insure my legal rights to medical help were not being viol**

Shall we speak to the issue of not having my prescription on me as your letter infers...*let's use some more of that wonderful im technique*... what do the Sheriff's records reveal? Let's not forget that your officer took my possessions and wallet and tha o nothing up my sleeve and nothing between the ears "incoherently") did I have access to it until I was released. Would you care to weather my prescription was in it... or venture that the Sheriff's department did not check (proper investigative procedure) this w contents to see if my prescription was in it. By the way, my prescription was in my wallet when it was returned to me.

While I appreciate that the picture you paint shows caring for an incoherent man... **by locking him up and denying legally req help...** I am quite sure that the picture illuminated by the truth and supported by evidence will not be the same. Dare I venture an opposite ... *one of uncompassion, bullying, intimidation, name calling (liar, incoherent one) and denial of basic civil and medic* inform me of who your superior is and send me a **copy of the rules and procedures that you used to guide your investigation**

Once again thank you for your cooperation in this matter.

Jason Grant Garza
1369 B. Hayes Street
San Franisco, CA 94117
415-922-7781
jaygarza@pacbell.net

P.S. If my complaint is unsubstantiated (your opinion) it is precisely and conviently by lack of investigative procedure (my opinio quite reasonable and apparent given all the facts and evidence. If you need a copy of my facts... tapes... paperwork...I would be m to provide them in exchange for yours. I would also like the chance to let someone else voice an opinion on the subject and theref continue. Again thanks and don't worry I'm sure that all will come out wright in the light.

cc: Health Commission

Quality Management

December 14, 2001

Mr. Jason Grant Garza
1369 B Hayes Street
San Francisco, CA 94117

Dear Mr. Garza:

I am writing in answer to your letter to me of November 18, 2001, and to your letter of November 28, 2001 to Captain Thomas Wright of the Institutional Police (IP). Captain Wright has retired and your letter to him was referred to me. I also wish to address the related issues you raise in the Patient Concern Statement you filed on December 5, 2001. I know that Gloria Garcia-Orme is coordinating a response to your questions about your medical care.

To reply to your question about my title, role and relationship to the hospital: I am the Director of Risk Management, which is part of the Quality Management Department for San Francisco General Hospital Medical Center. As you know, you have filed a claim with the City and County of San Francisco in regard to the questions you bring up in the above communications. Part of my role is to work with Medical Center departments and the Office of the City Attorney to investigate and follow up on claims and grievances.

In response to your questions to me about the "legal description" of the Institutional Police and their legal power to arrest, I refer you to California Penal Code Sections 830.7(c), and 836. I have enclosed a copy of those references for your convenience. I do not have the knowledge or authority to answer any of the questions addressed to me or to Capt. Wright about the communications and/or procedures of the San Francisco Police Department, Emergency Communications, or Office of Citizen Complaints. I encourage you to continue to follow up with those agencies if you wish further information about them.

In response to your questions about the grievance process, I understand from Gloria Garcia-Orme that she has informed you about the process used at San Francisco General Hospital Medical Center (SFGHMC), and that you have since filed Patient Concern Statements. As I stated in my previous letter to you, the patient grievance process at SFGHMC and the process for filing a lawsuit in the

City and County of San Francisco are not related and therefore neither is a prerequisite for the other.

On May 4, 2001, Capt. Wright wrote you a letter in regard to concerns you had verbally expressed to Ms. Garcia-Orme on April 24, 2001. Capt. Wright concluded then that the IP officer (IPO) "did not violate any departmental rules in the performance of his duties." Another investigation was conducted upon my receipt on October 1 of the claim you had filed, including interview of staff and review of records. The results corroborated Capt. Wright's assessment. The written Patient Concern statement you submitted on December 5 raised an issue you had not brought forward previously: that you were denied an opportunity to go to the bathroom when you requested to do so. It is the practice of the IP to accompany a prisoner to the bathroom upon request, or if this is not possible, to provide a urinal. Unfortunately, it is difficult to ascertain exactly what happened on April 22 because more than seven months have elapsed since that night and your articulation of this new concern.

I understand from your communications that you feel distressed by your experience at SFGHMC on the night of April 22, 2001. However, it is clear to me from my review of the IP investigation that the officer's actions did not violate either your rights or IP policy. The California Department of Health Services is the regulatory body, which oversees care at SFGHMC. I understand that Ms. Garcia-Orme has provided you with the information you need to contact this agency, and I would encourage you to do so if you wish further follow-up to your concerns.

Sincerely,

Alison Moëd, RN MS
Director, Risk Management
CHN Quality Management Department

enclosure

cc: Gloria Garcia-Orme, Director, Patient Relations

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as speci in Section 836 during the course and within the scope of their employment, if they successfully complete a course i exercise of those powers pursuant to Section 832: (a) Persons designated by a cemetery authority pursuant to Sectio 8325 of the Health and Safety Code. (b) Persons regularly employed as security officers for independent institution higher education, recognized under subdivision (b) of Section 66010 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief o police within whose jurisdiction the institution lies. (c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, that are owned and operated by cities, counties, cities and counties, if the facility has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the facility lies. . . .

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him o her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,without a warrant, may arrest a person when any of the following circumstances occur: (1) The officer has probable cause to believe that the person to be arreste has committed a public offense in the officer's presence. (2) The person arrested has committed a felony, although n the officer's presence. (3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed. (b) Any time a peace officer is called out on a domesti violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right t make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest. (c) (1) W a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issu under the Family Code, Section 527.6 of the Code of Civil Procedure, Section 213.5 of the Welfare and Institutions Code, Section 136.2 of this code, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, or of a dome violence protective or restraining order issued by the court of another state, tribe, or territory and the peace officer h probable cause to believe that the person against whom the order is issued has notice of the order and has committe act in violation of the order, the officer shall, consistent with subdivision (b) of Section 13701, make a lawful arrest the person without a warrant and take that person into custody whether or not the violation occurred in the presence the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities o Domestic Violence Protection Order Registry maintained pursuant to Section6380 of the Family Code that a true co of the protective order has been registered, unless the victim provides the officer with a copy of the protective order. The person against whom a protective order has been issued shall be deemed to have notice of the order if the victi presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true c of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order. (3) In situations where mutual protective orders have been issued under Division 10 (commencing with Section 6200) of the Family Code, liability for arrest under this subdivision applies only to those persons who are reasonably believed to have be the primary aggressor. In those situations, prior to making an arrest under this subdivision, the peace officer shall m reasonable efforts to identify, and may arrest, the primary aggressor involved in the incident. The primary aggressor the person determined to be the most significant, rather than the first, aggressor. In identifying the primary aggresso officer shall consider (A) the intent of the law to protect victims of domestic violence from continuing abuse, (B) the threats creating fear of physical injury, (C) the history of domestic violence between the persons involved, and (D)whether either person involved acted in self-defense. (d) Notwithstanding paragraph (1) of subdivision (a), if a suspect commits an assault or battery upon a current or former spouse, fiance, fiancee, a current or former cohabitan defined in Section6209 of the Family Code, a person with whom the suspect currently is having or has previously h an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of Section 243, a person with whom the suspect has parented a child, or is presumed to have parented a child pursuant to the Uniform Parentage A (Part 3(commencing with Section 7600) of Division 12 of the Family Code), a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of th above categories, or any other person related to the suspect by consanguinity or affinity within the second degree, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply: (1) The pea officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or n has in fact been committed. (2) The peace officer makes the arrest as soon as probable cause arises to believe that th person to be arrested has committed the assault or battery, whether or not it has in fact been committed. (e) In additi to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace off may, without a warrant, arrest a person for a violation of Section 12025 when all of the following apply: (1) The offi has reasonable cause to believe that the person to be arrested has committed the violation of Section 12025. (2) The violation of Section 12025 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property. (3) The peace officer makes the arrest a soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 1202

University of California
San Francisco

School of Medicine
Office of Risk Management

SAN FRANCISCO
GENERAL HOSPITAL
1001 Potrero Avenue
Bldg. 20, Room 2101
San Francisco, CA 94110
tel: 415/206-6952
fax: 415/206-3665

December 27, 2001

Mr. Jason Garza
1369 B Hayes St.
San Francisco, CA 94117

Dear Mr. Garza:

I am the University of California, San Francisco Risk Manager at San Francisco General Hospital and work directly with the professional staff employed by UCSF at SFGH. Among other responsibilities, I respond to concerns or complaints made by patients against UCSF staff who work at SFGH.

I am responding to the Patient Concern Statement that you completed on December 2, 2001, concerning your therapy with Dr. Sexton and your rec[illegible] appointment with him on November 9, 2001.

If I may paraphrase your statement of concerns, you disagree with the various diagnoses that Dr. Sexton recorded in your medical record during the course of your therapy sessions with him starting in 1997. You were also not satisfied with the explanation of the diagnoses that he discussed with you in your meeting on November 9, 2001.

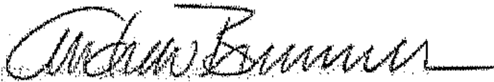
Dr. Sexton was exercising his clinical judgment in arriving at these diagnoses and only another mental health professional who has had the opportunity to interact with you could concur or disagree with Dr. Sexton's assessments. If you are now engaged in therapy, or in the future choose to seek therapy, with another mental health professional, this therapist can arrive at an independent conclusion based on his or her own assessment.

You also expressed concern about not being admitted to the Psychiatric Emergency Service ("PES") on April 22, 2001. The general criteria for admission to PES are individuals who, as a result of a mental disorder, are deemed to be suicidal, a threat to others or are unable to provide for their most basic needs such as food and shelter. Our review indicates that the mental health professional who interviewed you at the intake window did not believe, based on a reasoned assessment, that you met the criteria for an emergency admission. Specifically this mental health professional concluded that you were not in imminent danger of seriously harming yourself and, therefore, decided not to admit you on an emergent basis for observation and / or treatment. Again, this is an issue of clinical judgment and another mental

health professional presented with the same situation may well have reached the same decision.

I am sorry that you are dissatisfied with the treatment you received from our mental health services at SFGH, but our review does not suggest that the care you received was inappropriate or substandard.

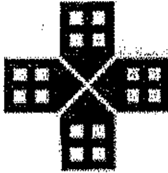
Sincerely,



Andrew Brunner
UCSF Risk Manager at SFGH

cc: Gloria Garcia-Orme
Director, Patient Relations

Alison Moëd, RN, MS
Director, Risk Management



COMMUNITY HEALTH NETWORK OF SAN FRANCISCO
SAN FRANCISCO GENERAL HOSPITAL MEDICAL CENTER
1001 POTRERO AVENUE
SAN FRANCISCO, CA 94110
PATIENT/VISITOR CENTER ROOM 1C1 • MAIN LOBBY
(415) 206-5176 • FAX (415) 206-4272

PATIENT CONCERN STATEMENT

TODAY'S DATE: 1/18/2002 TIME: ______ PLEASE SEND COMPLETED FORM TO ABOVE ADD

PART 1. PATIENT INFORMATION

PATIENT NAME: [illegible] DATE OF BIRTH: 11-7-60 MRN 0074490 (MEDICAL RECORD)

ADDRESS: [illegible] (STREET) San Francisco (CITY), Ca. (STATE) 9411[illegible] (ZIP)

TELEPHONE: (415) 922-[illegible] HEALTH PLAN: ☐ None ☑ Medi-Cal ☐ Other ______

NAME OF YOUR USUAL HEALTH CARE PROVIDER & LOCATION: None at this point

PART II. CONCERN STATEMENT

DATE OF OCCURRENCE: Recently TIME OF OCCURRENCE: ______

LOCATION(S)/DEPARTMENT(S) INVOLVED: "SF General - Grievance Procedure

SUMMARY OF CONCERN (WHAT HAPPENED?) PLEASE INCLUDE NAMES AND/OR POSITION OF STAFF INVOLVE[D]

Please see attached enclosures
Concern/Grievance Statement

USE AN ADDITIONAL SHEET IF

PLEASE FILL OUT PARTS I, II & III

PART III. CONCERN RESOLUTION:

THANK YOU FOR TELLING US ABOUT YOUR CONCERN. PLEASE INDICATE THE BEST WAY TO CONTAC

YOU SHOULD WE NEED MORE INFORMATION: ☑ WRITE TO ME or ☑ CALL ME ☐ I WILL CONTACT YOU

SIGNATURE OF PATIENT: [signature]

NAME/ADDRESS/PHONE # OF ☐ SPOUSE ☐ FAMILY MEMBER ☐ VISITOR WRITING CONCERN:

n/a

NAME ADDRESS CITY ZIP PHONE

NAME, TITLE, PHONE # OF STAFF PERSON WRITING CONCERN: n/a

FOR INTERNAL USE ONLY

PART IV. CONCERN DISPOSITION

REVIEWED BY: ______ TODAY'S DATE: ______ CONCERN CODE(S): ______

DEPARTMENT(S) INVOLVED: ______ STAFF INVOLVED: ______

SUMMARY: ______

FOR INVESTIGATION AND FOLLOW-UP PLEASE SEND TO: ______

ADDITIONAL FOLLOW-UP: ______

PART V. RESOLUTION:

DATE RESOLVED: ______ LETTER OF RESOLUTION REVIEWED BY: ______

DATE LETTER OF RESOLUTION MAILED TO PATIENT/FAMILY: ______ DATE OF RESOLUTION MEETIN

CALL: ______ SUMMARY OF RESOLUTION: ______

INVESTIGATION RESULTS: ______

1/18/2002

To Whom It May Concern:

I wish to file a grievance/complaint in the handling and disposition of my prior grievances... the untimeliness...and the nature of t along with said responses' individual issues and how they were addressed along with the representation made ("their interpretatic the truth - syllogistically speaking). The deliberate "glibness" and untimely fashion has left me questioning the ethics of this proc wheather or not it is actually causing more harm to myself than the specious factious claim of help, redress, contrition and guidar to complain was to " bring to light" the circumstances and complexities of my case...its handling and disposition of said matters a resulting treatment or lack of it thereof. Instead and quite indignantly I feel, the response has been to professionally reclassify the (spin)...cheerfully invite me to persue this further (if not satisified)...while ignoring my crisis, medical history, and on-going "Adj Disorder." To be precise this "risk management style" approach while seeming having no duty to me and ignoring my medical hi intensifiying my disorder and causing more harm...instead of alieving my disorder by acknowledging the truth and harm done in a case...professionally and ethically speaking as a "Hospital and Care Faculity" ;instead, it seems to be concerned more with seriou rather than "at all costs" insuring adequate compentent medical treatment by said environment's staff is having serious life or lack considerations placed on my already weakened and precarious ("Adjustment Disorder" ... cannot adjust to disorder... a well adju in a maladjusted society) nature by all the grave injustices and malpractice already visited upon myself ... and we'll leave Oren's (soulmate) treatment and its consequence on me out for it is implicit in my file. If afterwards it is found that this attempt is a comn manuever to circumvent liability ...done to every case (wheather found innocent or guilty of said allegations) .... denial and "plau even when faced with the obvious blatant truth ...this by its very nature will be a great injustice... not to mention another "shatteri disorder; this however, supposes that its premise truly matters (when as in war as in business acceptable collateral damage) or wo ("compartmentalized responsibilty ... just doing our job") ... for statistically speaking how many grievances fall by the way side... appealed...how many go to court....how many are settled thereby not acknowledging fault much less correction...and ultimately h collect. With odds like that...what would any "risk management team" advise to do? Where do I fit in this equation;howeve question...what if it truly got to court and the whole truth and nothing but the truth came to light including the followup and ... c used and their purpose (limiting awards) all the while representing "oneself" as a higher moral and ethical standards (medical) an just a typical business model to generate profit at any cost? However, unfortunately... the more opportunty afforded the more inte deferral, and deflection as exhibited by the responses. Of coarse, this is my opinion...I wonder what a jury of twelve will think...e all the facts and the nature of my "Adjustment Disorder." I truly know that I have honestly tried to be civil, helpful, and honest in my treatment (or lack of it)...elevated appropriately...and been handled systematically from a legal approach rather than a medica considering my grievances while posing as a medical facility caring for a patient. To this I categorically state disgust mixed with commingling with fear (wolf in sheep's clothing) at the "conflicts of interests" apparently stacked against my health and mental st and all other interests.

Here are some of the facts concerning the responses:

According to a packet received thru Gloria Garcia-Orme entitled Patient/Visitor Concern/Grievance Policy number 16.3: under S Triaging and Coordinating the Follow-up Response subsection C ., number 2b states: "The response will be mailed to the person concern, within 15 working days from notification of the concern. The written response will include the name of the contact pers to investigate the concern, results of the investigation, and date of completion." To this I am told that these are guidelines and pol Patient Relations Director when I call to inquire about timeliness... for as of today I still have not received my response to a griev 11/28/2001) and the other response(dated 12/27/2001 ... covering two seperate grievances 12/2/2001 and 12/5/2001) was barely deadline of 15 working days...does that mean that they (policies/deadlines) aren't based on legal (timeliness) requirements...sure organization claiming to help me wouldn't blatantly break/bend the law...so let's see what the law states. Cal. Health & Safety Co (states within 30 days) or Medicare rules similarly require that grievances be resolved within 72 hours when there is a serious thr health. However, I guess that my file will more than amply show inadequate action whenever it came to threat of life (incidentall and luckily I already feel quite totally dead because of all (treatment/experiences)...and the complicated/intensified factor adding Adjustment Disorder) and serious pyschological permanent damage occurring not to mention the "irrepairable" damage already c incidents and treatment options I endured for myself and my now dead soulmate over a period of many years.

Now as to the juice of matters in my complaints and their corressponding response along with logic and/or attempt (at logic h given the facts and evidence will illustrate the "impossible battle" facing this patient for seeking services, help, and redress of dan having "faith in the system of care" at this point.

...irst my response to my grievance against Dr. Mark Sexton answered to by Andrew Brunner dated 12/27/2001... the nature of m illustrated by my complaint and can be summarized "I know that I have been sujected to malpractice, denial of medication, false diagnosis, denial of religious beliefs, breach of trust, and more emotional and pyschological damage seeking help from this indiv taken a medical oath!" In Mr. Brunner's third paragraph he paraphrases my concerns and disatisfaction... in the fourth he offers h Dr. Sexton's performance and suggests that only another mental health professional could concur or disagree with Dr. Sexton's as that another therapist can arrive at an independent conclusion...does that mean his opinion as a non-doctor would not apply also.. an independent conclusion ... however, he does have a great career as a "writer" (my opinion) ... does that mean a jury of twelve or arrive an independent conclusion based on the facts in this case? Secondly, he informs me about my disatisafaction concernin emergency care "you expressed concern about not being admitted to the Psychiatric Emergency Services" on April 22, 2001 and general criteria and alleges that the mental health professional, based on reasoned assessment, believed I didn't need emergency a consider the law... what accessment to establish a baseline ... what qualifications describes a mental health professional by law ar person have these qualifications...both physical (5 point check,temperature..heart rate...blood pressure...weight ...etc) and mental my record and/or grievances ... if I didn't state crisis intervention for severe mental crisis requiring emergency treatment as evide taking my paperwork copies for confirmation of the facts ... sticking them in the PES window) ... where was I told why I was den and verbal form as required by the law...hospitals must tell you, both orally and in writing, any reasons for transferring you or re provide you services... they also must treat you .... Emergency Medical Treatment and Active Labor Act ("EMTALA,") 42 U.S. 1395dd ... for an emergency medical condition ...42 Code Of Federal Regulations § 489.24 ... specifically defining what a medic in Cal. Health & Safety Code §1317.1(b)] [42 U.S.C. §1395dd(e)(1). The federal regulations that apply to Medicare hospitals e definition to expressly include psychiatric disturbances and symptoms of substance abuse to the extent that such conditions meet of an emergency medical condition (i.e., where the absence of immediate medical attention could reasonably be expected to resu patient's health (interesting enough the sheriff's department deemed my mental health as such requiring strip down ... other unme and a night nude in jail ... and didn't look at the paperwork or read it either... must be "standard" ... until the next morning when spoke to me and had me released immediately... however, I'm sure you pulled all the paperwork at the Sheriff's office and noted t very precise investigation that warranted such replies .. I wonder if you can begin to understand the treatment received and the se reprecussions on my soulforce ... that of honesty ... never being arrested before ... in the middle of all types of crisises... medical,mental,financial, physical, spiritual,and emotional... but that would all be evidenced in my complaint and/or medical rec seeking federally mandated emergency medical care in a crisis situation ... and now I feel as if I'm the next contestant in "blame game") in serious jeopardy, etc.) Mr. Brunner goes on to politely informs me that this is an issue of clinical judgement and anoth health professional presented with the same situation may well have reached the same decision. I politely offer that this rationale be presented to misdirect, deflect, or not answer any of the substance in my complaint and lack of medical attention not to mentic medical rights which were denied/violated. He also apologizes at my disatisfaction and suggests that the care received (?) was ap standard... I "may well" agree to this point since I am pointing out the fact that this process (PES) was disfunctional and unprofes however, this "may well" be the standard ... I know I'm getting the standard run around and denial... I guess it depends on what y of "standard" is and who classifies it. I once again wonder what a jury properly informed would think. I wonder what they would "standard" handling of these delicate issues that has so tramatized/jeopardized my existance/health and aided in the death of my s especially considering my notificating to all doctors and institutions such as in Gross v Allen (1994) legal case citing Tarasoff. P my letter to Dr. Spivak in my file concerning Oren's treatment. If we, as gays, can't marry (proscribed - DOMA), then isn't the "st measurement" as applied in wrongful death standings that as of one of the "protected" classes ... most especially in relationship (since I am not diseased/deceased person , yet... I would say severely disabled) to the medical and pyscharitic field ... considerei APA held that "homosexuality was not a disease" whereas applicable by Tarasoff and Gross v Allen (1994) case. So where as an citizen was I afforded/guarteened by "equal protection" my constitutional and civil rights to "life, liberty and the persuit of happi resulted in the denial of my civil rights while Oren (my soulmate) was alive and now to be denied my basic civil rights after his d ludicrous considering/concerning my medical and legal rights and how they related to my mental and physical health and its treatment/accessment ... or lack of it thereof.

Lastly, my third (Katz) complaint/grievance filed 11/28/2001 denoting more of my experiences has yet to be answered or recei While truly I'm filled with deep sorrow.... and maybe a little sorry I started this entire process... I'm not sorry for I will follow thr completion and ultimate definite resolution/disposition, fact finding, representation, and ethic and moral standards while trying to compartmentalize ("I am in control of my emotions" - Spock) "my crisises" in order to deal with all the current present moral im (mantle) that God and destiny has placed me in by the handling "epidemiology" (or lack of it) of my case and of my grievance/c placing me in an unwilling role that can be best expressed as epideictic without the rhetorical factor/effect. "For life is but a stage believe Shakespeare said. I may be dead inside but truth will live on thru my words, action and deeds; funny, the circle of life (birth/creation/words ... life/actions ... and death/deeds/ what we are measured by) ... queer ... something that I thought the "Medi Profession" was to honor and revere or maybe in this case ("risk management style" to hospital operations) I should point out the institute estimates hospital errors ... defined as poor hospital quality as such practices as overprescribing drugs, unnecessary surg treating serious conditions (mine...you who... over here) that could have been caught earlier (10th paragraph of said article)... cos Billion and $29 Billion annually (SF Chronicle Thursday, January 17,2001 B3) under the article entitled "State hospitals' safety r study" ... 8th paragraph.

In God's hands I place this matter and in your capacity.

Sincerely, respectfully,humanely,compassionately ... however, enbittered and embattled.

Jason Grant Garza
1369 B. Hayes Street
San Francisco, CA 94117
415-922-7781
jaygarza@pacbell.net

P.S. Am I not entitled to a second opinion (you know medical help) and haven't I been asking clearly enough... should we address /or timeliness of its approval (considering I've never stopped asking/believing ... maybe not so much now ... or to be more precise capable of disbelieving because of my "Adjustment Disorder" what I'm seeing and confronting) and the lack of continuation of ca please line up the doctors/medical professionals ... because I can show you what I have received from the hospital (risk managem professionals ... response-wise that is; however, if we need such insight to see the reality of this tragedy and its absurdity ... then v hope and isn't that the real terror (indifference); for, if a change comes and a lesson must be learned might it be by example - incl continuing tragedy ... foward and onward as if not by the Grace of God! For as destiny, the gliding hand implictively cosm r each turn when "man" is ready to learn and develop insight by exegesis.

cc:

California Department of Health Services, 714 P Street, Room 1350, Sacramento, CA 95814
U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201
Department of Health Services Crediting and Certification, 350 - 90th Street, Daly Cuty, CA 94015.
Medical Board of California, Central Complaint Unit, 1426 Howe Avenue, Sacramento, CA 95825
Ed Illumin c/o Human Rights Commission, 25 Van Ness Ave., 8th Floor, San Francisco, CA 94102

e-mail copy:

Dr. Sidney Wolfe, Public Citizen - swolfe@publiccitizen.org
Rev Irene Monroe - imonroe@hds.havard.edu
Jim Gilday - Jim_Gilday@dph.sf.ca.us

Mailed 3/28/03
4/10 LVM w/ Beth
Status check

3/25/2003

Allison Moed
c/o Risk Management
1001 Potereo Ave., Room 2300
San Francisco, CA 94110
415-206-3604

Bldg 20

Attn: Allison Moed
Re: Request for Retrieval of information defining, outlining, and constituting the procedure and process of a full and complete Medical Screening Examination as requirec by EMTALA.

Dear Allison:

Priorly you had sent me a copy of your policy no# 20.9 ... EMTALA. Under Procedure sectic 1 Medical Screening Examination: states " *Triage is not the equivalent to a medical screening examination.*" and "*A medical screening examination is the process required to reach, within reasonable clinical confidence, whether an emergency medical condition does or does not exis* ***The scope and location of the examination must be tailored to the presenting complaint and the medical history of the patient.***" However, nowhere in the policies that I received clearly stated what this examination entailed ... no definition ... no set procedure, etc.

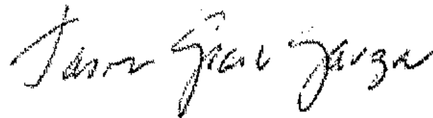
According per Robert Derlet, MD, Chief of Emergency Medicine, Professor, Departments of Emergency Medicine and Internal Medicine, University of California (Davis) Medical Center writes: " In most of the country, the emergency physician is designed to perform the MSE and should take appropriate history and perform an appropriate physical examination ... Triage is n considered an MSE ... MSE must include history, physical examination, ancillary services routinely available to the ED ... Emergency medical condition means a medical condition manifesting itself by acute systoms of sufficient severity (including severe pain, psychiatric disturbances, and/or symptoms of substanc abuse) such that the absence of immediate medical attention could reasonable be expected to result in:

Placing the health of the individual(or, with respect to a pregnant woman, the health of woman or her unborn child) in serious jeopardy;
Serious impairment to any bodily functions;
Serious dysfunction of any bodily organ or part."

He also defines the prudent layperson defintion of Emergency Medical Condition as:
"The prudent layperson defintion of an EMC is widely interpreted yet generally defined as a medical condition that a nonmedical person with an average knowledge of the world would consider as needing emergency care."

So in specific, please send me the policies and procedures of an Medical Screening Evaluatic (what constitues a proper and complete screening and how it is carried out uniformly) and include a copy of my Medical Screening Evaluation (last time I received a copy of the "Triag Report" per Paul Lewis' admission and signed statement (triage document) per the packet of information already sent per your letter dated March 5, 2002 ... which (Lewis' statement) is specifically included as part of SFPD's Incident Report no. 010479962.) When I finally rec confirmation and my (Medical Screening Exam) it must note my prior medical history and have notes of my physical exam such as pulse rate, blood pressure, and an and all other applicable tests in order to arrive at a proper diagnosis for treatment under EMTALA and to correctly considered an appropriate medical screening examination. If you have any question to what my request specifically ask for ... feel free to call me ASAP or e-mail me and I will gladly clarify and specify.

Sincerely,



Jason Grant Garza
1369 B. Hayes Street
San Francisco, CA 94117
415-922-7781
jaygarza@pacbell.net

City and County of San Francisco

Department of Public Health

Gavin Newsom
Mayor

San Francisco General Hospital Medical Center

Troy Williams, RN
Director
Department of Risk Management

October 26, 2007

Frank Darby, Administrator
Sunshine Ordinance Task Force (SOTF)
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Dear Mr. Darby:

I am writing to acknowledge receipt of the SOTF's request for DPH staff to appear again at a Reconsideration Hearing before the Compliance & Amendments Committee on November 14, 2007 to respond to on-going complaint #06034 submitted by Mr. Jason Garza. Please note that the department has been consistently responsive to the SOTF's various requests for information pertaining to this matter. Additionally, Ms. Bertha Soldevilla-Dae, SFGH Risk Manager, appeared at hearings on January 9, 2007 and February 12, 2007.

The SOTF should now have a comprehensive record on this matter. To facilitate closure of the complaint, we hereby resubmit the documents on record with your office in response to Mr. Garza's continuing complaint. As the department believes that the SOTF has before it an adequate record that addresses the concern set forth in the subject complaint, and because it was necessary for Ms. Soldevilla-Dae to receive a security escort to her car after her last appearance, the department will not be sending a representative to the November 14th meeting.

Sincerely,

Troy Williams, RN
Director, Risk Management

Department of Risk Management
San Francisco General Hospital Medical Center
1001 Potrero Avenue • Bldg 20 Room 23 • San Francisco, CA 94110
Telephone (415) 206-6600 • Fax (415) 206-4150

SUNSHINE ORDINANCE TASK FORCE

Support Documents Replacement Form

The documents this form replaces exceeds 75 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

File #06034 – Fason Garza vs. DPH-SFGeneral

FROM: DPH-SF General Hospital

- [x] **Miscellaneous Documents (Personal and Confidential)**
- [ ]
- [ ]
- [ ]

This list reflects the explanatory documents provided.

Completed by: **Frank Darby** **Date:** **November 1, 2007**

"jaygarza@pacbell.net" <jaygarza@pacbell.net>

11/01/2007 04:01 PM

Please respond to jaygarza@pacbell.net

To sotf@sfgov.org, jaygarza@pacbell.net, troy.williams@sfdph.org, bertha.soldelvilla-dae@sfdph.org, eileen.schields@sfdph.org

cc bevan.dufty@sfgov.org, valerie.tulier@senate.ca.gov

bcc

Subject FW: DPH Response to Reconsideration: #06034_Jason Garza vs DPH

11/1/2007
4 p.m.

Dear Mr. Darby and Fellow Commissioners:

I am in receipt of the the following along with the attachment. In my William's Letter (Attachment) dated 10/26/2007 (06034_DPH Response to Reconsideration.pdf)first paragraph, Mr. William states that the department has been consistently responsive to the SOTF's requests. What he failes to mention is that the responses and answers (documents submited, testimony offered) are false, fradulent, manipulative and intended to decieve. Yes, he is correct that in his interpretation of the sunshine spirit the department has sent you fraudlent and inerroneous information. Let us not forget that when Ms. Soldevilla-Dae appeared she stated that the hospital had fully complied with the law, provide the required a medical screening examination and not put it down to paper. This was false, misleading statements intended to decieve and thwart the spirit and purpose of SUNSHINE. I have a copy of the audio tapes where she stated these facts. When I was asked if I had received all my paperwork per request ... I stated no since I had not received the medical screening examination report as required by law. This was not Bertha's representation ... she stated that I had my complete medical record and that the law had been fully complied with. What other records am I missing since apparently according to the settlement agreement the hospital and its representative don't know what the law is ... so how could they possibly be stating that they are in complaince or following it?

The second papragragh is correct in the fact that the SOFT has comprehensive records in this matter ... these records show, deceit, treachery, and NO SUNSHINE when fully examined. In his second sentence he is trying to faciliate closure (instead of facing punishment. accountibilty nor an effort to make their victim "whole"); however, without remedy, restitution, or damages to their victim their closure is immoral, unethical, and illegal and totally acceptable for it violates all my patient rights, human rights, legal rights, medical rights, and civil rights. He goes on to state that was necessary for Ms. Soldeville-Dae to receive a security escort to her car after last appearance (I certainly hope that they are not pointing fingers or assperations at me for they too would be false); however, if she did need an escourt ... it MUST BE from all the others that she has harmed. decieved, and misleaded. If this is the case ... truly there is a God. However, I will not be painted as a trouble maker or anything bad except as an individuaul fighting a corupt system in which truth has so far has held no weight. Lastly, If I remember the rules of the sunshine commision ... a representative MUST be present to answer. Please check this rule as I feel the other side is trying all it can do pull another no-no. I will gahter all evidence of statements from the hospital regarding full compliance with the law and records request as per their admisions and will bring the tapes in with MS. Soldeville-Dae mislead, decieved , and mis-stated the facts, law, and requirements.

Please be prepared to have a long meeting and "mind opening" experience as to the fraud, deceit purportrated upon you by your trained profesionals.

This also serves as notice that all those required to attend must still attend.

Commissioners, let's n... forget this hospital, its repr..sentatives and city the city attorneys' representatitions had been and how truthful in lieu of the NOW SIGNED SETTLEMENT AGREEMENT. Too bad they didn't have to verify the facts, sign under penalty of perjury; however, that was a way to provide false, incomplete and inaccurate information that was "spoon feed to you."

Therefore, as is my right to have all attend and respond in order to point out deceit, treachery, and bad faith ... this request must be forfilled and if I am correct is required by the ordinance. I am also in process of receive my FOIA request from the Inspector general which shlould illunate the tactics, deceit, and manipulation used throughout that is case. The implications, ramifications, and deliberate harm will be apparent and as such my request to push up all these individuals to the Ethics Commission for "official Misconduct" will be a no brainer.

Still the living dead,

Jason Grant Garza
Oren Jude's nonliving Soulmate
415-368-7551 jaygarza@pacbell.net

Original Message:

From: SOTF sotf@sfgov.org
Date: Thu, 1 Nov 2007 09:38:12 -0700
To: jaygarza@pacbell.net, arturo2245@yahoo.com
Subject: DPH Response to Reconsideration: #06034_Jason Garza vs DPH

Attached is the Department of Public Health's response to your request for reconsideration of the above titled complaint.

(See attached file: 06034_DPH Response to Reconsideration.pdf)

Frank Darby, Administrator
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
SOTF@SFGov.org
OFC: (415) 554-7724
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307

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mail2web - Check your email from the web at
http://link.mail2web.com/mail2web

06034_DPH Response to Reconsideration.pdf

"jaygarza@pacbell.net" <jaygarza@pacbell.net>
11/09/2007 07:33 AM
Please respond to jaygarza@pacbell.net

To sotf@sfgov.org, jaygarza@pacbell.net
cc
bcc
Subject FW: CAC Hearing Scheduled: November 14, 2007 (my response)

History: This message has been forwarded.

11/9/2007

Dear Mr. Darby:

Thank you for the e-mail below that was sent regarding the upcoming meeting. I however, wish to document our conversation as of yesterday, and if I am incorrect, please email me and correct my assessment. In our conversation, I specifically asked what was the consequence if the other side did not appear as their response seemed to indicate. To this you informed me that at the hearing the matter would be addressed. I asked how could this procedure exist after 20 years in Sunshine? Had it never occurred before ... how could it be good policy to have an ineffective rule/law if there were such apparent loopholes? This entire debacle speaks to the illusion of proper management while being false in the hope that it might provide a solution for the injured party much less proper sunshine or accountablity or even a deterent (punishment) for not complying. These are the same individuals who have city/government protection (free legal representation) while the citizens who they have a duty to are left to "turn in the wind!"

Please be aware that these facts in addition to all the facts (deception, fraud,lies, etc) that my case presents is precisely the reason hope, honor and dignity CANNOT occur in this deliberate disfunctional system. Please be aware that under Official Misconduct that the city attorney is pursuing against Supervisor Jew to the Ethics Committee ... the same defintion applies here and as such I demand that that these (all) individuals involved stand before the ethics committee and that their (ethics committee) previous failure (Nurse Ratched letter not Official Misconduct) be re-examined.

Please email me back if I got anything wrong and please send me a copy of policy regarding willful failure to comply as required by the ordinance/law.

Just more of the same and STILL THE LIVING DEAD,
Oren Jude's Nonliving Soulmate
Jason Grant Garza

Troy Williams/DPH/SFGOV	To	SOTF@SFGov.org
11/13/2007 04:29 PM	cc	Kathy Murphy/DPH/SFGOV@SFGOV
	bcc	
	Subject	SFGH Matter

Good afternoon Mr. Darby

The refusal for Mr Garza to accept closure on his complaint from 2001 is unfortunate. However, for the reasons set forth in my letter dated October 26, 2007 we will continue to decline to attend further meetings on this matter. Please let me know if you need anything further from me. Thank you.

Troy Williams, RN
Director, Risk Management
San Francisco General Hospital Medical Center
Office: 415-206-4018
Pager: 650-997-9725
Fax: 415-206-4068

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Arturo Garza
<arturo2245@yahoo.com>
12/17/2007 09:16 AM

To sotf@sfgov.org, bevan.dutty@sfgov.org, gavin.newsom@sfgov.org, arturo2245@yahoo.com
cc
bcc
Subject More paperwork regarding case# 06034 for the Full Sunshine Task Force UpcomingHearing

12/17/2007 9:15 a.m.

Attn: Frank Darby and Sunshine Commissioners:
Re: MANIFEST INJUSTICE, EMTALA Violation and Obstruction of Justice (Fraud, Misrepresentation, Negligence, and Obscuring of Material Facts.)

Dear Mr. Darby:

WAS IT A MEDICAL DECISION TO LIE ???

This packet is in reference to the case before the full Sunshine Commission # 06034 regarding the lawbreaking activity and consequential Obstruction of Justice.

This packet is to be added to all the other information submitted regarding this case before the Sunshine Commission. Below is an outline in reverse chronology (recent to past) of the letters, denial, misrepresentations (garbage in = garbage out) and systemic approach to the obstruction of justice in this instant case.

Proof of lawbreaking activities:

Settlement Agreement (deceit0001-5.jpeg)

Under # 3 Description of Section 1867 of the Act "The Emergency Medical Treatment and Labor Act (EMTALA) requires that a participating hospital with an emergency department must provide, upon request, an appropriate medical screening examination, within the capabilities of the hospital's emergency department, to determine whether an emergency medical condition exists, as defined in section 1867(e)(1) of the Act. 42 USC Section 1395dd."

Under #5 Covered Conduct "Based on its investigation, the OIG concluded that Respondent violated the requirements of section 1867 of the Act…"

Under #6 Admission of liability "This agreement is an admission by Respondent that it did not provide J.G. with an appropriate medical screening examination on April 22, 2001."

Under signature of Respondent : Gene Marie O'Connell; San Francisco General Hospital dated 4/19/2007.

Note Deceit0027.Jpeg from Steve Chickering (Western Consortium Officer on Department of Health and Human Services letterhead) dated July 17, 2007: " This is to advise you that a further investigation has verified your complaint that San Francisco General Hospital ("the Hospital") did not conduct a medical screening examination when you came to the hospital's emergency

department in 2001. Th... failure constituted a violation of the Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C. Section 1395dd."

The Game to Obscure, Reclassify and Obstruct Justice

Deceit0006.jpg Interrogatory Responses by CCSF and Nurse Lewis Case No. CO2-3485PJH Lines 20-24 "3. Defendant denies the allegations contained in paragraph 8 of the complaint. Paul Lewis performed a medical screening examination of plaintiff and provided the necessary services. 4. Defendant denies the allegations contained in paragraph 9 of the complaint. As set forth above, plaintiff was provided with a medical screening examination. Services were not denied."

Deceit0007.jpeg Letter from Bertha Soldevilla-Dae dated 11/29/2006 on Department of Public Health letterhead "I want to get back to you immediately to let you know that we are very sorry, but the Medical Screening Examination Report you have requested was not committed to paper at the time of your evaluation at San Francisco General Hospital (SFGH). Therefore, we do not have a Medical Screening Report for the incident you cite." I know this document is important to you and understand your wanting a copy of it."

Deceit0010.jpeg Letter from Bertha Soldevilla-Dae dated 11/17/2006 on Department of Public Health letterhead " Ms.Gene M.O'Connell asked me to respond your letter dated November 6, 2006, regarding your visit on 4/21/2003 (should be 2001) at San Francisco General Hospital Medical Center ("SFGH"). Thank you for bringing your concerns to our attention. Your complaint has been thoroughly investigated by SFGH hospital and the Department of Health Services ("DHS"). Both investigations concluded that there was not an EMTALA violation. DHS will be sending a letter directly concerning their findings." Please see deceit0011.jpeg dated 11/13/2006 from DHS.

Pattern of prior requests and pointing out lawbreaking activity.

Deceit0008-9jpeg dated November 27, 2006 Immediate Disclosure Request to Gene O' Connell "This request also includes a copy of my Medical Screening Examination Report that is required by EMTALA. A letter dated 11/17/2006 signed by Bertha Soldevilla-Dae stated (1) Ms. Gene M.O'Connell asked me to respond,(2) your complaint has been thoroughly investigated by SFGH hospital, and (3) there was not an EMTALA violation. As my letter dated 11/6/2006 clearly requested specific materials, my prior request for this medical screening examination report has gone unanswered meaning that I never received the required medical screening examination report as repeatedly asked for. In this same letter (dated 11/6/2006), I also submitted copies of prior requests that went unanswered. As such, this request must be complied with and not risk-managed as was apparent by your non-response received thru your letter dated 11/17/2006. Also in support of your stated contention (letter dated 11/17/2006) that no EMTALA violation had occurred - this specific (Medical Screening Examination Report) must be included in your response. The EMATALA law is very clear about requiring a MSE as

clearly stated in my request dated 11/6/2006 that went unanswered as to the specifics and requested material (MSE)."

Deceit0014-15jpeg letter to Gene O'Connell dated 11/6/2006 "As you will note by my prior letter to Allison Moed (enclosure) dated 3/25/2003, I have requested a copy of my Medical Screening Report for my arrest on 4/21/2001 and in the letter state that I received only a "Triage" Report. I also have in my file dated 4/5/2002 an email to Hiroshi Tokubo (enclosure) requesting the same Medical Screening Report. I believe that both persons work in your "Risk-Management Division" at the time I sent the requests in.
As you may have deduced I never received this Medical Screening Report; however, as you know when a patient presents in emergency and requests service, a Medical Screening Examination must be done in order to determine or rule out an Emergency Medical Condition. I have repeatedly stated that I only received triage and we know what your hospital policies state regarding triage as a medical screening. To remind you: under Procedure 1. Medical Screening Examination Section B. Scope states: " Triage is not equivalent to medical screening examination. Triage merely determines the "order" in which patients will be seen, not the presence or absence of an emergency medical condition."
Continuing with the theme of accountability, please send me an accurate and complete Medical Screening Report from my illegal arrest and denial of emergency services in 4/2001 (if you would like - I could send you a complete and accurate Medical Screening report from your same hospital since I was falsely 5150'ed on March 7, 2003 during my deposition while suing the city for your EMTALA violation in 2001), please notify me as to who "signed off" the false representation made to Survey and Certification (reclassifying a triage report into a medical screening report), a response as to the delay in responding to my prior request thru Risk-Management as stated above, and the name "lead person" who interfaced with the city attorney's office in order to represent this triage report as a medical screening report.
As such this request is specific to you and your organization … do not try to refer me to Survey and Certification since I have referred this case to Washington D.C. for their part in this faulty and incorrect assessment. I seek to hold you and your organization responsible in this travesty and as such need your response specifically directed at my requests and the requested complete and accurate medical screening report. Someone had to "sign off" on this travesty."

Deceit0016-17jpeg letter to Allison Moed dated 3/25/2003 "So in specific, please send me the policies and procedures of a Medical Screening Evaluation (what constitutes a proper and complete screening and how it is carried out uniformly) and include a copy of my Medical Screening Evaluation (last time I received a copy of the "Triage Report" per Paul Lewis' admission and signed statement (triage document) per the packet of information already sent per your letter dated

March 5, 2002 … which (Lewis'statement) is specifically included as part of SFPD's Incident Report no. 010479962.) When I finally receive confirmation and my (Medical Screening Exam) it must note prior medical history and must have notes on my physical exam such as pulse rate, blood pressure, and all other applicable tests in order to arrive at a proper diagnosis for treatment under EMTALA and to be correctly considered an appropriate medical screening examination. If you have any questions as to what my request specifically asks for … feel free to call me ASAP or email me and I will gladly clarify and specify."

Deceit0012-13jpeg dated 4/15/2002 to Hiroshi Tokubo @ SFGH "I have searched my records and still could not find the triage nurse's records (Mr.Lewis) or a copy of the Medical Screening Report. Please send me a copy of these articles ASAP."

Deceit0021-26 Report from Licensing and Certification dated 6/17/2002 Section 6 Conclusions: "Complainant was notified of the results of the preliminary investigation on 6/9/02 at 12:25 p.m. When told that there were no deficiencies identified of state and federal regulations, the complainant demanded to know where was his medical screening report. He maintained the triage nurse's assessment was not a medical screening report. He declared the facility had not given him notification verbally and in writing in violation of Health and Safety Code 1371a. He denied the information that the triage nurse, as a medical professional, had performed the medical screening exam that he was contesting."

Now, for all the above and what it demonstrates: Sunshine Commission must find:

Referral/Call for City Wide Investigation into this case to answer specific questions that have never been answered …

Referral to Ethic's Commission, California Attorney General, SF District Attorney, Mayor's Office, SF Health Commission and Board, SF Mental Health Board, Disability Board, Board of Supervisors and all other applicable agencies (ADA, US Attorney, Justice Department - Concurrent Investigation) for "Official Misconduct" all persons involved and any other applicable charges.

Follow up with and question failure of:

Members of the Board of Supervisors (that I went to)

Mitchell Katz (Director of Public Health) who was my doctor until abandonment … SF General is where I saw him and where I told him about EMTALA, my false arrest, no police protection,etc.

Gene O' Connell and all Risk Management Staff, etc. By the way WHERE IS PATIENT ADVOCACY?

City Attorney and false 5150 inclusive of fraud and misrepresentations in federal court.

Sheriff's R.N. (Nurse) Ratched letter and why NO San

Francisco Police help ... per call.

Mr. Darby and Commissioners, please base your decision upon the facts of the deceit played upon you and the fact that throughout this long proceeding the other side has always TESTIFIED that they did what the law required and complied as evidenced in prior testimony during prior SOTF hearings. Even recently as proof that they must not understand the law … they recently did not appear as required by law to face you. Instead and quite deliberately, they have taken NO RESPONSIBILITY , tried to defer the matter away (We can't understand why Mr. Garza can not put this behind him); deflected (We have provide all the required paperwork), and even denied (We have complied with the requirements of the law.) Yet , NO WHERE HAVE THEY ADVOCATED NOR HELP THEIR PATIENT.

Commissioners … the question is quite simple … please refer to your records and audio tapes of past hearings … did they not testify that they had complied with the law?

WAS IT A MEDICAL DECISION TO LIE ???

If, I come seeking evidence that will prove my case unequivocally and the other side fabricates, distorts and even lies in face of the truth … what is the purpose of sunshine? If the other side claims not to know about the policies, meanings, and procedures of a twenty year old law (EMTALA.com) shouldn't those twenty years of hospital decisions be reviewed? Or is it another MEDICAL DECISION to ignore this fact and its implications for malpractice?
Then to add insult to injury and not appear to answer as was evident in their prior failures to appear as required.

Ask yourselves commissioners if I had had correct and accurate records as per their representation when I first asked … would the fraud and perjury have happened in federal court? Did they not know the law then … were their representations accurate and correct?

WAS IT A MEDICAL DECISION TO LIE ???

Hippocratic Oath

Translation by Heinrich Von Staden, "In a pure and holy way:" Personal and Professional Conduct in the Hippocratic Oath," Journal of the History of Medicine and Allied Sciences 51 (1996) 406-408.

1. i. I swear
ii. by Apollo the Physician and by Asclepius and by Health and Panacea and by all the gods as well as goddesses, making them judges [witnesses],
iii. to bring the following oath and written covenant to ful- fillment,in accordance with my power and my judgment;

2. i. to regard him who has taught me this techne as equal to my parents, and
ii. to share, in partnership, my livelihood with him and to give him a share when he is in need of necessities, and

iii. to judge the offspring [coming] from him equal to [my] male siblings, and
iv. to teach them this techne, should they desire to learn [it], without fee and written covenant, and to give a share both of rules and of lectures, and of all the rest of learning, to my sons and to the [sons]of him who has taught me and to the pupils who have both make a written contract and sworn by a medical convention but by no other.

3. i. And I will use regimens for the benefit of the ill in accordance with my ability and my judgment, but from [what is] to their harm or injustice I will keep [them].

4. i. And I will not give a drug that is deadly to anyone if asked [for it],

ii. nor will I suggest the way to such a counsel. And likewise I will not give a woman a destructive pessary.

5. i. And in a pure and holy way
ii. I will guard my life and my techne.

6. i. I will not cut, and certainly not those suffering from stone, but I will cede [this] to men [who are] practitioners of this activity.

7. i. Into as many houses as I may enter, I will go for the benefit of the ill,

ii. while being far from all voluntary and destructive injustice, especially from sexual acts both upon women's bodies and upon men's, both of the free and of the slaves.

8. i. And about whatever I may see or hear in treatment, or even without treatment, in the life of human beings -- things that should not ever be blurted out outside --I will remain silent, holding such things to be unutterable [sacred, not to be divulged],

i. a. If I render this oath fulfilled, and if I do not blur and confound it [making it to no effect]

b. may it be [granted] to me to enjoy the benefits both of life and of techne,

c. being held in good repute among all human beings for time eternal.
ii. a. If, however, I transgress and purjure myself,

b. the opposite of these

So as is evident the MEDICALDECISION TO LIE violates the Oath …Now the questions before the commission are: Will the Sunshine Commission follow or violate its scope and purpose/mission or will darkness rule? Would the complainants federal lawsuit been different if he had gotten the information sought? What has this MANIFEST INJUSTICE proven to the commission and the "ease" in which it was done? How many other cases are like this? Why did it take so long and if after six years for the truth to be told … why is the other side so eager to close/shut off process in this case? Why do they not stand before you and answer? Will the commission also be used to "KILL THE WHISTLEBLOWER?"

For all the above list... activity commissioners, I do not ask rather DEMAND that you follow proper procedure … elevate to the proper agencies "Official Misconduct" charges, refer the case issues and matter to any and all agencies requested by the above, watch and monitor results and outcomes and consider my Oren Jude Amendment (prior submittal) in reference to this particular agency's power and effectiveness. As stated before commissioners, you have been willing "pawns" in this game of deception and darkness … now that the wound has been exposed to "sunshine" … let the healing begin!
Shall we start with the prior testimony and the MEDICAL DECISION TO LIE … who will answer to you and your questions? Have I, commissioners in any way tried to deceive, manipulate, or obscure the process (six long years) … your duty is to me … the complainant with a signed admission of guilt and liability.

Respectfully; however embittered and embattled,

Jason Grant Garza
Oren Jude's Nonliving Soulmate
jaygarza@pacbell.net

Be a better friend, newshound, and
know-it-all with Yahoo! Mobile. Try it now.
http://mobile.yahoo.com/;_ylt=Ahu06i62sR8HDtDypao8Wcj9tAcJ

SETTLEMENT AGREEMENT

I. Recitals

1. Parties. The Parties to this Settlement Agreement (Agreement) are the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) and San Francisco General Hospital Medical Center (Respondent).

2. The Hospital is a Participating Provider. Respondent is a participating hospital that has entered into a provider agreement under section 1866 of the Social Security Act (Act) and has an emergency department.

3. Description of Section 1867 of the Act. The Emergency Medical Treatment and Labor Act (EMTALA) requires that a participating hospital with an emergency department must provide, upon request, an appropriate medical screening examination, within the capability of the hospital's emergency department, to determine whether an emergency medical condition exists, as defined in section 1867(e)(1) of the Act. 42 U.S.C. § 1395dd. If an individual has an emergency medical condition, the hospital must provide, within the capabilities of the staff and facilities available at the hospital, treatment to stabilize the condition, unless a physician certifies that the individual should be transferred because the benefits of medical treatment elsewhere outweigh the risks associated with transfer. If a transfer is ordered, section 1867(c) of the Act requires that the transferring hospital provide stabilizing treatment to minimize the risks of transfer. A receiving hospital that has specialized capabilities may not refuse to accept an appropriate transfer of a patient who requires such capabilities. 42 U.S.C. § 1395dd(g).

4. Description of Civil Monetary Penalty. Section 1867(d)(1)(A) of the Act provides that "[a] participating hospital that negligently violates a requirement of this section is subject to a civil money penalty of not more than $50,000 (or not more than $25,000 in the case of a hospital with less than 100 beds) for each such violation."

5. Covered Conduct. The OIG conducted an investigation regarding allegations that Respondent had violated section 1867 of the Act. Based on its investigation, the OIG concluded that Respondent violated the requirements of section 1867 of the Act on April 22, 2001, when J.G. presented to San Francisco General Hospital for evaluation and treatment of a medical condition. J.G. was in acute emotional distress and wanted medical treatment. Respondent failed to provide an appropriate medical screening examination to determine if J.G. was suffering from an emergency medical condition. (Covered Conduct). This Agreement resolves the OIG's investigation pertaining to this violation.

6. Admission of Liability. This Agreement is an admission by Respondent that it did not provide J.G. with an appropriate medical screening examination on April 22, 2001.

7. Intent of Parties to Effect Settlement. In order to avoid the uncertainty and expense of litigation, the Parties agree to resolve this matter according to the terms and conditions delineated below.

II. Terms and Conditions

8. Payment. Respondent agrees to pay to the OIG $5,000.00 (Settlement Amount). This payment shall be made in the form of a certified or cashier's check, made payable to the Secretary, United States Department of Health and Human Services. Respondent shall make full payment no later than the Effective Date of this Agreement.

9. Release by OIG. In consideration of the obligations of Respondent under this Agreement and conditioned upon Respondent's full payment of the Settlement Amount, the OIG releases Respondent from any and all claims or causes of action against Respondent for civil monetary penalties or other action under section 1867(d)(1) of the Act, 42 U.S.C. § 1395dd(d)(1), for the Covered Conduct. The OIG and HHS do not agree to waive any rights, obligations, or causes of action other than those specifically referred to in this Paragraph. This release is applicable only to Respondent and is not applicable in any manner to any other individual, person, partnership, operation, or entity.

10. Release by Respondent. Respondent shall not contest the Settlement Amount under this Agreement and any other remedy agreed to under this Agreement. Respondent waives all procedural rights granted under the Civil Monetary Penalties Law or EMTALA (42 U.S.C. §§ 1320a-7a and 1395dd), related regulations (42 C.F.R. Part 1003), and the HHS claim collections regulations (45 C.F.R. Part 30), including but not limited to notice, hearing, and appeal with respect to the Settlement Amount.

11. Reservation of Claims. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Respondent) are the following:

a. Any criminal, civil, or administrative claims arising under Title 26 U.S. Code (Internal Revenue Code);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory and permissive exclusion from Federal health care programs; and

d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct.

12. Binding on Successors. This Agreement shall be binding on Respondent and the heirs, successors, assigns, and transferees of Respondent.

13. Costs. Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

14. No Additional Releases. This Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against any other person or entity.

15. Effect of Agreement. This Agreement constitutes the complete agreement between the Parties. All material representations, understandings, and promises of the Parties are contained in the Agreement. Any modifications to this Agreement shall be set forth in writing and signed by all Parties. Respondent represents that this Agreement is entered into with the advice of counsel and knowledge of the events described herein. Respondent further represents that this Agreement is voluntarily entered into in order to avoid litigation, without any degree of duress or compulsion.

16. Execution of Agreement. This Agreement shall become effective (i.e., final and binding) upon the date of signing by the last signatory and upon receipt by the OIG of complete and full payment of the Settlement Amount as required in Paragraph 8. The date the Agreement becomes effective is the Effective Date.

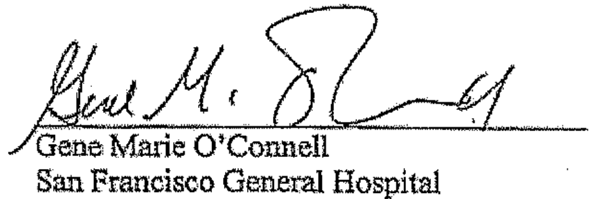
17. Disclosure. Respondent consents to OIG's disclosure of this Agreement, and information about this Agreement, to the public.

18. Execution in Counterparts. This Agreement may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement.

19. Authorizations. The individuals signing this Agreement on behalf of the Respondent represent and warrant that they are authorized by Respondent to execute this Agreement. The individuals signing this Agreement on behalf of the OIG represent and warrant that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

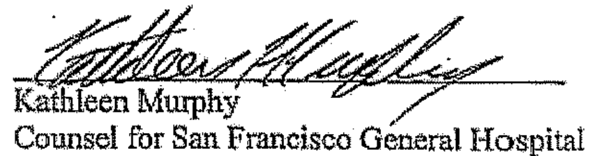
RESPONDENT

4/19/07
Date



Gene Marie O'Connell
San Francisco General Hospital

4/19/07
Date



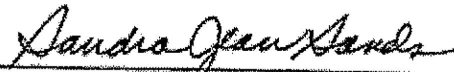
Kathleen Murphy
Counsel for San Francisco General Hospital

OFFICE OF INSPECTOR GENERAL

4/20/07
Date

Gregory E. Demske
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

4/19/07
Date



Sandra Jean Sands
Senior Counsel
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

With regards to each of paragraphs 1 through 16 contained in the Complaint and each affirmative Defense in the defendant CCSF'S answer to the complaint, please identify each denial of a material allegation and each affirmative defense in your Answer, and for each please state all facts upon which you base the denial or affirmative defense.

RESPONSE TO INTERROGATORY NO. 1:

Defendant objects to this interrogatory in that it this interrogatory requires answers in subparts on several separate discrete subject matters and thus seeks to bypass the Federal Rule limiting the number of interrogatories to 25. Moreover, the interrogatory is vague unintelligible and overbroad. Without waiving the above objections defendants respond as follows:

1. Paragraph One of the Complaint -- Defendant possesses no personal knowledge regarding tl truth of this allegation.
2. Defendant denies the allegations contained in paragraph 7 of the complaint. Plaintiff did nc present with an emergency medical condition. Plaintiff was not suffering from an acute an severe mental health crisis. Plaintiff specifically denied any intent to kill himself, did not present himself as a danger to others and was not gravely disabled. Instead plaintiff came t the hospital at 11:00 p.m., and demanded that Paul Lewis, RN, read a stack of papers and c Dr. Mitch Katz.
3. Defendant denies the allegations contained in paragraph 8 of the complaint. Paul Lewis performed a medical screening examination of plaintiff and provided the necessary service
4. Defendant denies the allegations contained in paragraph 9 of the complaint. As set forth above, plaintiff was provided with a medical screening examination. Services were not denied.
5. As to ¶ 10, plaintiff was not wrongly denied emergency services. He refused to leave the premises of the hospital when he was clearly not suffering from any type of medical emergency

28

H:\LIT\L2002\021474\001622

City and County of San Francisco

Depart
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San Francisco General
Medic

November 29, 2006

Jason Grant Garza
1369 B. Hayes Street
San Francisco, CA 94117

Dear Mr. Garza:

We are in receipt of your public records request of November 27, 2006 and have be(going through our files to fulfill this request. I wanted to get back to you immedia to let you know that we are very sorry, but the Medical Screening Examination Re[you have requested was not committed to paper at the time of your evaluation at ! Francisco General Hospital (SFGH). Therefore, we do not have a Medical Screer Report for the incident you cite. I know this document is important to you ; understand your wanting a copy of it. The State of California, Department of He: Services, is also aware of this lack of a Medical Screening Examination as it relate: your case and this incident. However, if you want a copy of your medical record, ple contact me at (415) 206-6600 and I'll have it available for you.

We will be sending you the other documents you have requested as soon as they ha' been identified and copied. Meanwhile, I apologize on behalf of SFGH that we do no have the Medical Screening Examination Report to give you.

Thank you for your understanding.

Sincerely,

Bertha Soldevilla-Dae
Case Manager, Risk Management Office
San Francisco General Hospital

.001 Potrero Avenue • Bldg 20, Suite 2300 • San Francisco • California • 94110
Telephone (415) 206-6600 • *Fax* (415) 206-4150

November 27, 2006

Gene O'Connell
SFBHMC Executive Administrator
Main Bldg., Room 2A11
1001 Potereo Avenue
San Francisco, CA 94110
415-206-8000

HAND DELIVERY --- "IMMEDIATE DISCLOSURE REQUES

Attn: Gene O'Connell
Re: Release of Public Information per the "Sunshine Ordinance", California Records A
and the Federal FOIA Act.

Dear Gene O'Connell:

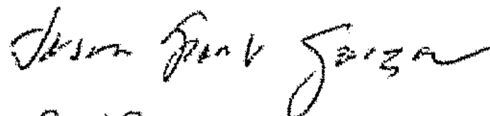
Pursuant to all relevant provisions of the California Government Codes [Ralph M. Bro
Act, et al.] and the San Francisco Sunshine Ordinance, California Records Act, and th
Federal FOIA Act - I would like to request a copy of the following:

All documents, emails, correspondence, logs, notes of conversations, notes of phone c
concerning the incident (my seeking emergency services and my illegal arrest) at San
Francisco General Hospital on 4/21/2001. This request includes all paperwork sent,
received, emailed or any other form of transmittal to all agencies involved. The reques
includes all paperwork sent, received, emailed or any other form of transmittal from a
agencies involved. These agencies should include Department of Health Services (city,
state, federal level), Health & Human Services (city, state, federal level), Survey and
Certification, Department of Public Health and Department of Mental Health (city, sta
and federal level), etc. The request also includes all internal documentation generated
the hospital concerning this matter also.

This request also includes a requested copy of my Medical Screening Examination Report that is required by EMTALA. A letter dated 11/17/2006 signed by Bertha Soldevilla-Dae stated (1) Ms. Gene M. O'Connell asked me to respond , (2) Your complaint has been thoroughly investigated by SFGH hospital, and (3) there was not an EMTALA violation. As my letter dated 11/06/2006 clearly requested specific materials, my prior requests for this medical screening examination report has gone unanswered meaning that I never received the required medical screening examination report as repeatedly asked. In this same letter (dated 11/6/2006), I also submitted copies of prior requests that went unanswered. As such, this request must be complied with and not risk managed as was apparent by your non-response received thru your letter dated 11/17/2006. Also in support of your stated contention (letter dated 11/17/2006) that no EMTALA violation had occurred - this specific (Medical Screening Examination Report) must be included in your response. The EMTALA law is very clear about requiring a MSE as clearly stated in my request dated 11/6/2006 that went unanswered as to the specifics and the requested material (MSE.)

All documents, emails, correspondence, logs, notes of conversations, notes of phone call concerning the incident (my false 5150) at San Francisco General Hospital on 3/7/2003. This request includes all paperwork sent, received, emailed or any other form of transmittal to all agencies involved. The request includes all paperwork sent, received, emailed or any other form of transmittal from all agencies involved. These agencies should include Department of Health Services (city, state, federal level), Health & Human Services (city, state, federal level), Survey and Certification, Department of Public Health and Department of Mental-Health (city, state, and federal level), etc. The request also includes all internal documentation generated by the hospital concerning this matter also.

Thou I walk through the valley of shadows ...



Jason Grant Garza
1369 B. Hayes Street
San Francisco, CA 94117
jaygarza@pacbell.net

Enclosure:
Letter dated 11/06/2006 to Gene O'Connell.

Cc: Valerie.Tulier, c/o Carole Migden, 455 Golden Gate Ave., Suite 14800, San Francisco, CA 94102 557-1300
Hon Phyllis J. Hamilton, 450 Golden Gate Ave., 17th Floor, Courtroom 3, San Francisco, CA 94102 522-2074.

City and County of San Francisco

Depar[t]
Publi[c]

San Francisco General
Medic

November 17, 2006

Jason Grant Garza
1369 B. Hayes Street
San Francisco, CA 94117

Dear Mr. Garza:

Ms. Gene M. O'Connell asked me to respond your letter dated November 6, 2006, re[g] your visit on 04/21/2003 at San Francisco General Hospital Medical Center ("SFGH"). you for bringing your concerns to our attention.

Your complaint has been thoroughly investigated by the SFGH hospital and the Depa of Health Services ("DHS"). Both investigations concluded that there was not an EMT violation. DHS will be sending a letter directly concerning their findings.

Thank you for writing to us about your concern. If you need to speak with me regarding this issue, I can be reach at 415 206-6600

Sincerely,

Bertha Soldevilla-Dae, HPC
Case Manager
Risk Management Office
San Francisco General Hospital

Cc: Patient Advocate
Lawrence Marsco

1001 Potrero Avenue • Bldg 20, Suite 2300 • San Francisco • California • 94110
Telephone (415) 206-6600 • *Fax* (415) 206-4150

DEPARTMENT OF HEALTH & HUMAN SERVI
CENTERS FOR MEDICARE & MEDICAID SERVI
WESTERN CONSORT
DIVISION OF SURVEY AND CERTIFICA

November 13, 2006

Jason Garza
1369 B Hayes Street
San Francisco, CA 94117

Dear Mr. Garza:

Over the past several months you have communicated by telephone with regional and centr office staff of the Centers for Medicare & Medicaid Services (CMS) and the California Department of Health and Licensing (DHS). On many occasions you have made repeated a multiple contacts with CMS staff.

As CMS staffs have explained to you, the grievances you have described concerning an alle violation of the Emergency Medical Treatment and Labor Act (EMTALA) has been thoroug and seriously investigated. The Division of Survey and Certification, within the Centers for Medicare & Medicaid Services (CMS) has completed a thorough review of your grievance concerning an allegation that a medical screening exam was required and not provided in 20 the university of California San Francisco Medical Center. The California Department of H Services (DHS) as our agent conducted a thorough review of your allegations in 2001 and f no violation of statue or regulations. Another review of the prior investigation was perform this office with DHS and the determination remains unchanged. On October 27, 2006, you fully informed of the findings and conclusions of that investigation.

We have concluded that further contacts regarding this matter will not be helpful to you, an your frequent communications have become disruptive, distracting and nonproductive. Ther I have instructed CMS Regional Office staff not to accept telephone calls from you in this matter.

Sincerely

Steven Chickering
Western Consortium Survey and Certification Officer

CC: Hon. Michael Leavitt, Secretary of Health and Human Services
Leslie Norwalk, Acting Administrator
Jeffrey Flick, Region IX Administrator
Steven Deering, Region IX Deputy Administrator

Denver Regional Office
1600 Broadway, Suite 700
Denver, CO 80202

San Francisco Regional Office
75 Hawthorne Street, 4th Floor
San Francisco, CA 94105

Seattle Regional Offic
2201 Sixth Avenue, R
Seattle, WA 98121

Subject: Re: [Fwd: [Fwd: Dear Sir ... I still need a copy of missing items.]]
Date: Mon, 15 Apr 2002 14:29:45 -0700
From: Hiroshi Tokubo <Hiroshi.Tokubo@sfdph.org>
To: Jason Grant Garza <jaygarza@pacbell.net>

Mr. Garza,

I received your email.

Hiro

Jason Grant Garza <jaygarza@pacbell.net>
04/15/02 09:54 AM

To: hiroshi.tokubo@sfdph.org, jaygarza@pacbell.net
cc:
Subject: [Fwd: [Fwd: Dear Sir ... I still need a copy of missing items.]]

Here's the fowarded copy of the e-mail sent 4/5/2002

Thanks....

Grant

----- Message from Jason Grant Garza <jaygarza@pacbell.net> on Fri, 05 Apr 2002 09:54:14 -0800 -----

To: hiroshi.tokubo@sfdph.org, jaygarza@pacbell.net, mike.storz@pai-ca.org, karina.newton@mail.house.gov

Subject: [Fwd: Dear Sir ... I still need a copy of missing items.]

Sorry ...
I apprently got your e-mail address wrong for the prior e-mail was returned undeliverable. Therefore I am refowarding the e-mail hopefully this time to the correct e-mail address

Grant

----- Message from Jason Grant Garza <jaygarza@pacbell.net> on Fri, 05 Apr 2002 09:45:27 -0800 -----

To: hiroshi_tobubo@chnsf.org, jaygarza@pacbell.net, mike.stortz@pai-ca.org, karina.newton@mail.house.gov

Subject: Dear Sir ... I still need a copy of missing items.

[... sir ... I still need a copy of missing items.]]

Dear Sir:

I have searched my records and still could not find the triage nurse's records (Mr. Lewis) or a copy of the Medical Screening Report. Please send me a copy of these articles ASAP.

Also I still have not had the question answered as to when the Officer Nichols signed the incident report (010479962) that I have. There is no dated signed on this report and according to Sgt. C. Koss #6 statement issued page 3 Of 3 ... his investigation and I believe signature on this incident report was on or after 10/09/01. In this statement he also alleges SFPD Officers were present ... please name them ... considering that I went to the phone to call and request SFPD action to insure that my medical rights were not being violated! Please be aware that I have a copy of the audio tape ... I never saw a SFPD officer ... please name them. Also note that this testimony is in direct contradiction to Mr. Nichols testimony he alone "was able to persuade" me to leave the Sallyport area ... what SFPD officers? This is also in direct contradiction to my statements ... why would I call for an SFPD officer if some were already there?

Thank you for your cooperation and speedy response to this request.

Jason Grant Garza
415-922-7781
jaygarza@pacbell.net

November 6, 2006

Gene O'Connell
SFBHMC Executive Administrator
Main Bldg., Room 2A11
1001 Potereo Avenue
San Francisco, CA 94110
415-206-8000

Attn: Gene O'Connell
Re: EMTALA Violation and re-requesting a copy of my Medical Screening Report.

Dear Gene O'Connell:

I have called and left repeated messages to contact you concerning a grave and serious injustice that has been performed by your hospital to me. I have called and left several messages to have you call me and speak about this only to receive no call back. To date per my records, I called and left a message on 10/19, left a message with Gwen 10/20, called 10/24 and spoke with Gwen to leave another message, and on 10/25 spoke with Anette who hung up on me. This is all in order to proceed and follow up on my prior well documented requests concerning EMTALA, my illegal arrest at SF General, denial of emergency services and lastly my repeated request for my medical screening report.

As you will note by my prior letter to Allison Moed (enclosure) dated 3/25/2003, I have requested a copy of my Medical Screening Report for my arrest on 4/21/2001 and in the letter state that I received only a "Triage" Report. I also have in my file dated 4/5/2002 an email to Hiroshi Tokubo (enclosure) requesting the same Medical Screening Report. I believe that both persons work in your "Risk-Management Division" at the time I sent the requests in.

As you may have deduced I never received this Medical Screening Report; however, as you know when a patient presents in emergency and requests service, a Medical Screening Examination *must be done* in order to determine or rule out an Emergency Medical Condition. I have repeatedly stated that I only received triage and we know what your hospital policies state regarding triage as a medical screening. To remind you: under Procedure 1. Medical Screening Examination Section B. Scope states: ***" Triage is not equivalent to medical screening examination. Triage merely determines the "order" in which patients will be seen, not the presence or absence of an emergency medical condition."***

Continuing with the theme of accountability, please send me an accurate and complete Medical Screening Report from my illegal arrest and denial of emergency services in 4/2001 (if you would like – I could send you a complete and accurate Medical Screening report from your same hospital since I was falsely 5150'ed on March 7, 2003 during my deposition while suing the city for your EMTALA violation in 2001), please notify me as to who "signed off" the false representation made to Survey and Certification (reclassifying a triage report into a medical screening report), a response as to the delay in responding to my prior request thru Risk-Management as stated above, and the name "lead person" who interfaced with the city attorney's office in order to represent this triage report as a medical screening report.

As such this request is specific to you and your organization ... do not try to refer me to Survey and Certification since I have referred this case to Washington D.C. for their part in this faulty and incorrect assessment. I seek to hold you and your organization responsible in this travesty and as such need your response specifically directed at my requests and the requested complete and accurate medical screening report. Someone had to "sign off" on this travesty.

Sincerely disgusted,

Jason Grant Garza
1369 B. Hayes Street
San Francisco, CA 94117
jaygarza@pacbell.net
415-922-7781 home no answer machine
415-368-7551 cell with answer machine.

Enclosures:

Copy of email dated Monday April 15, 2002 from and to Hiroshi Tokubo
Copy of letter dated 3/25/2003 to Allison Moed – Director Risk-Management

3/25/2003

Allison Moed
c/o Risk Management
1001 Potereo Ave., Room 2300
San Francisco, CA 94110
415-206-3604

Attn: Allison Moed
Re: Request for Retrieval of information defining, outlining, and constituting the procedure and process of a full and complete Medical Screening Examination as requi by EMTALA.

Dear Allison:

Priorly you had sent me a copy of your policy no# 20.9 ... EMTALA. Under Procedure sec 1 Medical Screening Examination: states "*Triage is not the equivalent to a medical screeni examination.*" *and* "*A medical screening examination is the process required to reach, with reasonable clinical confidence, whether an emergency medical condition does or does not e:* ***The scope and location of the examination must be tailored to the presenting complaint ai the medical history of the patient.***" However, nowhere in the policies that I received clearl stated what this examination entailed ... no definition ... no set procedure, etc.

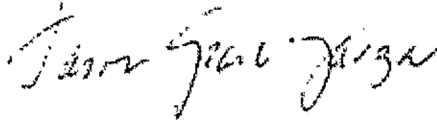
. According per Robert Derlet, MD, Chief of Emergency Medicine, Professor, Departments Emergency Medicine and Internal Medicine, University of California (Davis) Medical Cente writes: " In most of the country, the emergency physician is designed to perform the MSE an should take appropriate history and perform an appropriate physical examination ... Triage is considered an MSE ... MSE must include history, physical examination, ancillary services routinely available to the ED ... Emergency medical condition means a medical condition manifesting itself by acute systoms of sufficient severity (including severe pain, psychiatric disturbances, and/or symptoms of substanc abuse) such that the absence of immediate medic attention could reasonable be expected to result in:

Placing the health of the individual(or, with respect to a pregnant woman, the health c woman or her unborn child) in serious jeopardy;
Serious impairment to any bodily functions;
Serious dysfunction of any bodily organ or part."

He also defines the prudent layperson defintion of Emergency Medical Condition as:
"The prudent layperson defintion of an EMC is widely interpreted yet generally defined as a medical condition that a nonmedical person with an average knowledge of the world would consider as needing emergency care."

So in specific, please send me the policies and procedures of an Medical Screening Evaluation (what constitues a proper and complete screening and how it is carried out uniformly) and include a copy of my Medical Screening Evaluation (last time I received a copy of the "Triage Report" per Paul Lewis' admission and signed statement (triage document) per the packet of information already sent per your letter dated March 5, 2002 ... which (Lewis' statement) is specifically included as part of SFPD's Incident Report no. 010479962.) When I finally recei confirmation and my (Medical Screening Exam) it must note my prior medical history and m have notes of my physical exam such as pulse rate, blood pressure, and an and all other applicable tests in order to arrive at a proper diagnosis for treatment under EMTALA and to b correctly considered an appropriate medical screening examination. If you have any questions to what my request specifically ask for ... feel free to call me ASAP or e-mail me and I will gladly clarify and specify.

Sincerely,



Jason Grant Garza
1369 B. Hayes Street
San Francisco, CA 94117
415-922-7781
jaygarza@pacbell.net

University of California
San Francisco

School of Medicine
Office of Risk Management

SAN FRANCISCO
GENERAL HOSPITAL
1001 Potrero Avenue
Bldg. 20, Room 2101
San Francisco, CA 94110
tel: 415/206-5062
fax: 415/206-3665

December 27, 2001

Mr. Jason Garza
1369 B Hayes St.
San Francisco, CA 94117

Dear Mr. Garza:

I am the University of California, San Francisco Risk Manager at San Francisco General Hospital and work directly with the professional staff employed by UCSF at SFGH. Among other responsibilities, I respond to concerns or complaints made by patients against UCSF staff who work at SFGH.

I am responding to the Patient Concern Statement that you completed on December 2, 2001, concerning your therapy with Dr. Sexton and your recen appointment with him on November 9, 2001.

If I may paraphrase your statement of concerns, you disagree with the various diagnoses that Dr. Sexton recorded in your medical record during th course of your therapy sessions with him starting in 1997. You were also no satisfied with the explanation of the diagnoses that he discussed with you in your meeting on November 9, 2001.

Dr. Sexton was exercising his clinical judgment in arriving at these diagnose and only another mental health professional who has had the opportunity to interact with you could concur or disagree with Dr. Sexton's assessments. I you are now engaged in therapy, or in the future choose to seek therapy, wi another mental health professional, this therapist can arrive at an independent conclusion based on his or her own assessment.

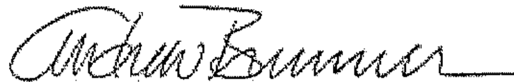
You also expressed concern about not being admitted to the Psychiatric Emergency Service ("PES") on April 22, 2001. The general criteria for admission to PES are individuals who, as a result of a mental disorder, are deemed to be suicidal, a threat to others or are unable to provide for their most basic needs such as food and shelter. Our review indicates that the mental health professional who interviewed you at the intake window did not believe, based on a reasoned assessment, that you met the criteria for an emergency admission. Specifically this mental health professional conclude

that you were not in imminent danger of seriously harming yourself and, therefore, decided not to admit you on an emergent basis for observation an / or treatment. Again, this is an issue of clinical judgment and another menta

health professional presented with the same situation may well have reach
the same decision.

I am sorry that you are dissatisfied with the treatment you received from ou
mental health services at SFGH, but our review does not suggest that the
care you received was inappropriate or substandard.

Sincerely,



Andrew Brunner
UCSF Risk Manager at SFGH

cc: Gloria Garcia-Orme
Director, Patient Relations

Alison Moëd, RN, MS
Director, Risk Management

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY

GRAY DAVIS, Go

DEPARTMENT OF HEALTH SERVICES
LICENSING AND CERTIFICATION
350 90th Street, 2nd Floor
Daly City, CA 94015
(650) 301-9971

June 20, 2002

Mr. Jason Grant Garza
1369 B. Hayes St.
San Francisco, CA 94117

Dear Mr. Grant Garza:

SAN FRANCISCO GENERAL HOSPITAL
COMPLAINT NUMBER: 22-0012087

The Licensing & Certification Program (L&C) within the Californ
Department of Health Services has completed an investigation of your complaint concerning patient rights and patient care/services at San Francisco General Hospital. L&C made an unannounced visit to the facility on 05/17/02 and investigated circumstances surrounding your complaint through direct observation, interviews, and/or review of documents. Through this process, we were not able to substantiate your complai

The basis for this finding is as follows:

L&C was not able to validate the complaint allegation through direct observation, interviews, and/or review of documents. In addition, no other unrelated violations of regulations were observed. Therefore, L&C will take no further action.

Current law authorizes the Department to make a final determination when investigating complaint allegations in Gener Acute Care Hospitals. Our final decision is based on onsite investigation including direct observations, interviews, and review of documents. This decision is not subject to any furth administrative review.

Thank you for sharing your concerns, we will continue our effor to ensure that patients receive care, services and reside in an environment in accordance with their needs and preference.

Should you have any questions, please contact Ms. Diana Marana, Health Facilities Evaluator Supervisor, at (650) 301-9971.

Sincerely,

John R. Hinton
Acting District Administrator

Enclosure (HCFA 2567)

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
050228	A. BUILDING ______ B. WING ______	5/17/02

NAME OF FACILITY: SAN FRANCISCO GEN. HOSP

STREET ADDRESS, CITY, STATE, ZIP CODE: 1001 POTRERO AVE. SAN FRANCISCO CA 94110

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERRED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE

THE FOLLOWING REFLECTS THE FINDINGS OF THE DEPARTMENT OF HEALTH SERVICES DURING THE INVESTIGATION OF COMPLAINT # 22-12087.

REPRESENTING THE DEPARTMENT OF HEALTH SERVICES: BRENDA FLOWERS, HFEN

THE DEPARTMENT WAS UNABLE TO SUBSTANTIATE A VIOLATION OF THE REGULATIONS PERTAINING TO PATIENT RIGHTS, PATIENT CARE/SERVICES (complaint category).

V-1114(?) D-10481 OF 6/18/02

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See reverse for further instructions.) The findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
Gene O'Connell / (per Alison Moed, QM)	Executive Administrator	6/17/2

If continuation sheet Page ____ of ____

Investigation Report

1. **Complaint number:** 22-0012087

2. **Facility Name:** San Francisco General Hospital

3. **Summary of Allegations:**
   1. Complaint about the handling and disposition of complainant's prior grievances, timeliness, and the nature of response. As of 1/18/02 complainant has not received any response to a grievance dated 11/28/01; and a response on 12/27/01 covering two separate grievances 12/2/01 and 12/5/01.
   2. Complaint about care and services. On 4/22/01 complainant alleged that he went to the facility in severe mental crisis and was denied medical services, illegally arrested, stripped and thrown in a jail naked, released and never followed up.
   3. Complaint regarding his doctor, abandonment and continuity of care.

   Findings:
   1. Unable to substantiate complaint about the handling and disposition of prior grievances. Complainant had been working with the Director of Patient Relations. He received written responses from the Medical Director of Medical Services, the Director of Risk Management and the UCSF Risk Manager at SFGH. These letters were included in documentation provided by the complainant to the Department. He also received a letter from the Director of Patient Relations dated 2/1/02 concluding the facility's investigation into his concerns.
   2. Unable to substantiate complaint about denial of care and services. Complainant was assessed at the facility's psychiatric emergency service and did not meet the criteria for admission. Complainant was informed that the Department does not regulate the police department.
   3. Complaint was referred to the Medical Board.

4. **Evaluator's Signature** 6/14/02 **Date** **Supervisor's Signature** 6/14/02 **Date**

5. **Narrative Summary of Investigation:**

Telephone call to the complainant on 5/9/02 at 10:30 a.m. to notify of initiation of complaint and to solicit further information. Complainant was agitated and angry that his complaint was not completed. He stated he had much more information since submitting his original packet of information February 2002, and he wanted to meet in order to deliver it. After being apprised the Department could only address complaints pertaining to state and federal regulations as they apply to health facilities, he demanded to speak to a supervisor. Arrangements were made for a conference with him. Met with the complainant on 5/14/02 at 1:00

p.m. along with a supervisor in an attempt to clarify his concerns. The complainant left no further documentation.

Review of complainant's documentation revealed a 41 year old hispanic male, born 11/7/60, with a diagnosis of Major Depressive Disorder, severe, chronic, with psychotic features, rule out Psychotic Disorder not otherwise specified, rule out Cannabis Induced Psychotic Disorder, Personality Disorder, not otherwise specified with narcissistic and borderline features, Epilepsy/Seizure Disorder under control since age 10. The therapist also wrote: "He has refused a medication evaluation and prefers to use marijuana on a daily basis to treat his depression despite my strong objections. He has a long standing suicidal ideation that increases when under stress. An accurate diagnosis is difficult to discern because of his concurrent cannabis use, though it is likely his symptoms of major depression with psychotic delusions would still be evident even if he were not using cannabis."

The documents revealed efforts by the complainant to get medical marijuana prescribed for "stress and anxiety".

Progress notes by the complainant's primary physician dated 1/11/01 revealed: "He is very clear about wanting to intervene with the mental health system that he feels had failed his bf (boyfriend)." On 5/24/01: "he feels that the coroner is covering up the facts of the death of his bf" and "He went to PES (psych emergency service) about 1 month ago and wound up getting arrested."

The documents chronicled his grievance efforts after his "soulmate died" and he had presented to the facility in "mental distress" where he was arrested and thrown in jail. There were also many letters in reply from various agencies stating actions taken to address his grievances. After investigations by the different agencies, there was no evidence that any of the complaints were substantiated. A grievance form dated 11/28/01 appeared to be about his primary physician. The grievance form dated 12/2/01 appeared to be about his psychologist and the form dated 12/5/01 referred to the Institutional Police. These last two issues were addressed in letters dated 12/14/01 and 12/27/01 and were written by the facility's Director of Risk Management and the UCSF Risk Manager at SFGH.

An unannounced visit to was made to the facility on 5/17/02 at 11:30 a.m. to investigate the complainant's allegations. Met with Administrative staff to inform them of the nature of the complaint. Requested documents and reviewed the complainant's medical record.

Regarding the complainant's claim that he had not received a response to his grievance dated 11/28/01, administrative staff stated the complainant had been in contact with the Director of Patient Relations throughout the process. A letter from the Medical Director dated January 14, 2002 revealed the complainant's

assertions were reviewed and the Medical Director was not able to find any violation of rules or standards of medical care. This letter was also part of the many pages of documentation provided by the complainant.

Interview with the nurse manager on 5/17/02 at 12:00 p.m. revealed the complainant came to the Psychiatric Emergency Services (PES) intake area on 4/21/01 around 11:50 p.m. The medical screening nurse (Staff A) assessed the complainant. It was clear to Staff A that the complainant did not meet the admission criteria. The complainant became verbally abusive with threatening behavior towards staff and others in the area. Staff A called the institutional police (IP) to escort the man out. The nurse manager stated Staff A was one of his best nurses, had 11 years experience in Psychiatric Emergency and is now currently the evening supervisory nurse. The nurse manager provided a copy of the medical screening form with the nurse's assessment of the complainant. It clearly documented the complainant saying, "I'm not saying I'm going to kill myself" and that he was uncooperative with ANY questioning. It further noted the complainant did not meet the 5150 criteria.

From the police report: "I was dispatched to (facility area) regarding a man refusing to leave. Upon my arrival I met with (Staff A) who told me that a man was refusing to leave the sallyport (triage/intake) area of PES after repeated request. Staff A also told me that the man, later identified as (the complainant), was refusing any treatment. I then made contact with (complainant) and told him that the psych staff wanted him to leave. (Complainant) then yelled at me and said, "I don't want to leave and if you make me I will sue you." I then, over about five minutes, was able to verbally persuade (complainant) to leave the sallyport area and escorted (complainant) out of the hospital. Once outside, (complainant) said, "I will leave for now but as soon as you leave the area I will come back." At 1210 hrs, I was dispatched to the main lobby of (facility), regarding a man calling 911 and talking incoherently to a dispatcher. Upon my arrival I saw (complainant) on a pay phone. (Complainant) then hung up the phone and began yelling at me. (Complainant) made it clear to me that he was not going to leave on his own accord. I then arrested (complainant) for trespassing and took him to the institutional police office for booking."

Telephone interview on 6/12/02 at 4:00 p.m. with the Evening Shift Charge Nurse and Clinical Specialist (Staff A) who did the medical screening exam of the complainant on 4/21/01 revealed: the complainant was very belligerent. He had no symptoms of medical problems or psychiatric problems that would necessitate admission. The nurse stated the complainant came in with a ream of papers demanding that he read them and call his doctor (Dr. K). Staff A said he got the impression the complainant had tried to call Dr. K, was unsuccessful and wanted Staff A to call. It was almost midnight by this time. The complainant was advised to call his doctor during normal business hours.

Staff stated the complainant said "I'm not going to kill myself." He was dressed appropriately for the weather, spoke normally. Answered some questions, however, he had a clear agenda: wanted the nurse to read the reams of paper he brought in and call his doctor. Staff A stated complainant did not request medical care. He said, as a matter of course we ask what services we can provide, what can we do to help you.

In describing the medical screening exam, Staff A explained that the assessment process is very complex, starting with when the person opens the door and starts walking to the triage window. Staff assesses how the person walks, looks, smells, how they're dressed, what they say and how they say it...they ask "Why did you come here, what can we do to help you." Staff A determined the complainant did not reach criteria for care. He documented the complainant stated "I'm not saying I'm going to kill myself." Staff A stated there was no visible evidence of trauma or physical maladies of any sort with this complainant. He stated he would be assessing overt neurological signs, pupils, gait, slurred speech, delirium, and reinforced that complainant was not acutely psychotic.

When whether vital signs are usually taken, Staff A stated he needed consent for vital signs, needed a willing person. "He was not willing for that. Need cooperative person to take vital signs. Vital Signs only one part of it (the assessment). Don't necessarily have to take vital signs to determine if someor is ill but need cooperative person. This particular guy was demanding only that we assist him reaching Dr. K."

6. <u>Conclusions</u>:
Based on interview and document review, the complaints were unsubstantiated. There were no deficiencies of state or federal regulations identified. The facility had a grievance policy in place and documented their efforts to address complainant's grievances. The facility's policy and procedures were followed in assessing complainant in the PES. It was clearly documented that the complainant did not reach the criteria for admission. The complaints against Dr. K were brought to the Medical Board and were not substantiated by that agency.

Complainant was notified of the results of the preliminary investigation on 6/9/02 at 12:25 p.m. When told there were no deficiencies identified of state and federal regulations, the complainant demanded to know where was his medical screening report. He maintained the triage nurse's assessment was not a medical screening report. He declared the facility did not give him notification verbally and in writing in violation of Health and Safety Code 1371a. He denied the information that the triage nurse, as a medical professional, had performed the medical screening exam that he was contesting.

Consulted with CMS on 6/13/02 in the morning regarding written and verbal notice in EMTALA regulations. She stated she was not aware of any requirements for a facility to give written notification for services not provided.

H&S 1371 regulations apply to health service plans and written notices regarding claims to the health plan.

The facility's policy and procedure clearly provides for registered nurses and other qualified medical personnel to perform the medical screening exam.

DEPARTMENT OF HEALTH & HUMAN SERVICE

CENTERS FOR MEDICARE & MEDICAID SERVICE
Consortium For Quality Improvement and Survey & Certification Ope
Western Consortium – Division of Survey & Certific

Refer to: WCDSC-

July 17, 2007

Mr. Jason Garza
1369 B Hayes Street
San Francisco, CA 94117

RE: San Francisco General Hospital EMTALA complaint

Dear Mr. Garza:

This is to advise you that a further investigation has verified your complaint that S Francisco General Hospital ("the Hospital") did not conduct a medical screening examination when you came to the Hospital's emergency department in 2001. Th failure constituted a violation of the Emergency Medical Treatment and Labor Ac (EMTALA). 42 U.S.C. § 1395dd. Since the investigation also confirmed tha e Hospital has remedied the cause of the violation, we plan to take no further actior are closing our file in this matter.

Sincerely,

[signature] for
Steven Chickering
Western Consortium Officer

cc: San Jose DPH: A. Quintero
CMS: L. Norwalk, T. Hamilton, M. Dahl
OIG: S. Sands
OGC: C. Blake, J.Stein

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