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February 20, 1981

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ARIZONA ATTORNEY GENERAL

INTERAGENCY
Judson R. Finley, Ph.D., Secretary
Arizona State Board of Psychologist
Examiners
1645 West Jefferson, Room 418
Phoenix, Arizona 85007

Re: I81- 039 (R80-187)

Dear Doctor Finley:

You inquired of this Office whether, under present Arizona law, it is possible "to have notification of all concerned authorities and potential victims before persons who are declared dangerous are transferred or discharged on a long term or temporary basis to less secure facilities or to the community".

Assuming you are concerned with persons undergoing evaluation, examination or treatment, pursuant to Title 36, Chapter 5 of the Arizona Revised Statutes, A.R.S. § 36-509 would permit disclosure of such information in defined circumstances. That statute provides in relevant part as follows:

All information and records obtained in the course of evaluation, examination or treatment shall be kept confidential and not as public records. . . . [i]nformation and records may only be disclosed, pursuant to rules established by the department, to:

1. Physicians and providers of health, mental health or social and welfare services involved in caring, treating or rehabilitating the patient.
2. Individuals to whom the patient has given consent to have information disclosed.
3. Persons legally representing the patient, and in such case, the department's rules shall not delay complete disclosure.
4. Persons authorized by a court order.

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5. Persons doing research or maintaining health statistics, provided that the department establishes rules for the conduct of such research, as will insure the anonymity of the patient.

6. The Department of Corrections in cases where prisoners confined to the State Prison are patients in the State Hospital on authorized transfers either by voluntary admission or by order of the court.

7. Governmental or law enforcement agencies when necessary to secure the return of a patient who was on unauthorized absence from any agency where the patient was undergoing evaluation and treatment.

The pertinent rules and regulations of the Department of Health Services--namely, A.C.R.R. R9-15-313--provide only that, "Information and records concerning a patient's course of screening, evaluation, or treatment authorized under A.R.S., Title 36, Chapter 5, shall not be open to the general public for unrestricted inspection. Availability of these records shall be determined as provided by A.R.S. § 36-516(sic)".

The statute enumerates the persons to whom information can be released. Release of information to a person not mentioned must be by court order pursuant to subsection 4. Any change to existing procedures can be accomplished through legislative action.

Sincerely,



BOB CORBIN
Attorney General

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