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CLIENT BULLETIN

STATE AMENDS “YOUTH BILL OF RIGHTS” TO GIVE NEW STATE AGENCY AUTHORITY TO INVESTIGATE OFFICERS

November 7, 2022

Amendments to the Welfare and Institutions Code signed into law late this year by Governor Newsom expand the “Youth Bill of Rights” to give authority to the new Office of Youth and Community Restoration (OYCR) to investigate complaints against peace officers in juvenile facilities. Assembly Bill 2417 (Ting, D-San Francisco), which becomes law on January 1, 2023, expands the list of rights afforded to incarcerated youth to include filing complaints against peace officers with the new state agency.

California’s first “bill of rights” for offenders housed in juvenile facilities was enacted in 2008 and limited to juvenile facilities operated by the state. The legislation guaranteed such basic rights as “a safe, healthy and clean environment”, the right to refuse medications, access to legal counsel and religious services, and freedom from improper searches, abuse and corporal punishment, but did not extend these rules to county probation departments. The new Youth Bill of Rights extends the state rules to all juvenile facilities and adds several new rights, including the right to parental education, internet use, snacks, and vocational training.

But the new law also adds such “rights” as filing complaints against peace officers with the new Office of Youth and Community Restoration (OYCR). The OYCR was created by Senate Bill 823, the Juvenile Justice Realignment Act, to oversee the implementation of realignment in local juvenile halls and camps while retaining overall state authority over funding, inspections, and policy. The Youth Bill of Rights gives OYCR authority to:

[d]ecide, in its discretion, whether to investigate complaints from youth who are detained in, or committed to, juvenile facilities, [and from] families, staff, and others about harmful conditions or practices, violations of laws and regulations governing facilities, and circumstances presenting an emergency situation, or refer complaints to another body for investigation.

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The phrase, “circumstances presenting an emergency situation” in this list means *uses of force against detained youth*. Thus, the OYCR has the authority not only to investigate complaints from youth and families about conditions and practices in the facility, but also to investigate alleged law violations and uses of force by facility staff.

Missing from the legislation, not surprisingly, are any provisions intended to protect the rights of officers. There is no provision describing how OYCR would conduct investigations and no provision for the confidentiality of the peace officer personnel record the investigation would create. Furthermore, given the legislative trend over the last few years toward removing confidentiality protections from whole categories of peace officer personnel records, new laws authorizing the public disclosure of records of investigations involving claims by incarcerated youth may be coming.

Since OYCR has the discretion to refer its investigations to another agency, and presently lacks investigative staff, complaints made to OYCR against juvenile hall officers may fall to local agencies to investigate. A peace officer who is notified the officer is the subject of a complaint being investigated by OYCR should contact their legal representative. Rights afforded every peace officer under the Public Safety Officers Procedural Bill of Rights Act apply even to an investigation by a state agency.

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