

APA Official Actions

Position Statement on Location of Civil Commitment Hearings

Approved by the Board of Trustees, December 2016

Approved by the Assembly, November 2016

“Policy documents are approved by the APA Assembly and Board of Trustees. . . . These are . . . position statements that define APA official policy on specific subjects. . . .” – *APA Operations Manual*

Issue:

Although statutory requirements, case law and local practice vary considerably across jurisdictions, civil commitment of individuals with mental illness to either inpatient or outpatient treatment is a universal practice throughout the United States. A court hearing is a necessary component of civil commitment and patients who are subject to such a hearing have a constitutional right¹, safety permitting, to be present. Because patients are typically held in a hospital during the commitment process, these hearings frequently occur in hospital settings, including rooms set up as courtrooms. Although there is varying degree of formality to the proceedings², they nonetheless provide a suitably solemn judicial process for patients facing the potentially stressful and embarrassing proceedings involved in hospitalization over their objection. In-hospital hearings also allow for a court docket dedicated to mental health issues, reducing the need for acutely ill patients to wait for extended periods of time in non-therapeutic settings.

However, there remain some jurisdictions where civil commitment hearings are routinely held in standard courthouses, therefore requiring transportation of acutely ill psychiatric patients outside of the therapeutic hospital setting. Such transportation commonly involves the use of local law enforcement personnel and prophylactic use of restraints such as handcuffs. The convenience of the court and counsel, budgetary constraints, and a desire for administrative efficiency as well as open proceedings are some of the reasons cited for this continued practice. However, these considerations are not sufficient to justify the affront to patients' privacy and dignity or to warrant the significant clinical risks that this practice poses (e.g., patient elopement, behavioral and/or medical emergencies that cannot be managed as effectively as in a clinical setting, or traumatization and possible injury from being restrained). For jurisdictions where an in-hospital setting is unrealistic due to the time required for travel by necessary court personnel, technological advances such as video conferencing are an acceptable and cost-effective alternative that protects the privacy of the patient without compromising their due process rights.

POSITION:

Procedures for civil commitment hearings, or other civil legal proceedings involving hospitalization of psychiatric patients, should always be designed to minimize adverse impacts on patients. Given the risks of harm associated with transporting seriously ill, hospitalized patients to courthouses, unless patients request otherwise, hearings for hospitalized patients should be held in an appropriate location in the hospital itself.

References:

1. *Addington v. Texas* 441 U.S. 418 (1979)
2. Ferris, CE. 2008. The search for due process in civil commitment hearings: how procedural realities

have altered substantive standards. 61 *Vand. L. Rev.* 959

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