



December 14, 2021

ATTN: Assembly Health and Judiciary Committees

RE: Joint hearing on Lanterman Petris-Short Act, December 15, 2021

I am writing to you today on behalf of Californians with intellectual and developmental disabilities to discuss the Lanterman Petris-Short Act (LPS) and how it impacts our community.

Congress established the State Councils in every state and territory 51 years ago. The Councils are authorized in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (the DD Act) to ensure that individuals with developmental disabilities and their families can access services and supports that “promote self-determination, independence, productivity, and integration and inclusion” in community life. The Lanterman Act establishes the State Council on Developmental Disabilities in California, serving over 330,000 individuals with disabilities.

The Council supports all efforts to improve access and services for all Californians. We continue to advocate passionately for systems change for the benefit of individuals with intellectual and developmental disabilities. To the extent that the Lanterman Petris-Short Act (LPS) is appropriate for our community members in crisis, when no other resources are available, we will continue to support that authority. However, in discussing LPS and its limitations, we advise that the legislature exercise great caution in considering the expansion of its authority.

In discussing LPS, policy makers should keep in mind unintended consequences, notably in circumstances involving overreach of conservatorship when alternatives are available; long term placements in State Hospitals when individuals may be more appropriately served through less restrictive alternatives and intensive involuntary treatment, and the school to prison pipeline for dually-diagnosed transition-aged youth.

The Lanterman Petris-Short Act (LPS) passed in 1967 to “end the inappropriate, indefinite and involuntary commitment of persons with mental health disorders.” The passage of LPS set the stage for California's exit from segregated, institutionalized settings in favor of person centered planning and community based services. While the LPS authority plays an important role in protecting individuals in acute mental health crisis, the Act is not perfect. Any plans to expand this authority must take into consideration current systemic limitations and unintended consequences. Examples include a backlog of public guardians and bed availability in state hospitals without providing support for the needs of the individual in crisis.



The intellectual and developmental disabilities community, statewide, has undergone tremendous movement in exiting segregated facilities in favor of community centered living and services. In 1968, California Department of Developmental Services operated over eight institutions called Developmental Centers that housed over 13,000 Californians with intellectual/developmental disabilities. These Centers effectively segregated individuals from public view, family, friends and from thriving out in the community. As California embraced community living and services, six of the facilities have closed; two state-operated facilities remain with the role of creating and enhancing community-based services. Fewer than 500 Californians reside in California DDS state-operated facilities.

The Movers Longitudinal Study (MLS) collected the outcomes of individuals who transitioned from the Developmental Centers to the community over a four year period and proved that community living, not institutionalization, led to increased individual satisfaction and enhanced opportunities. The Study highlights consistently satisfied markers amongst participants and their family members or representatives. The prospect of moving out of the developmental center was tough for most, but once they were living in the community, they reported a significantly improved satisfaction rates across the board, running from 80% to 95% satisfaction.

In *Olmstead v. L.C.* (1999), the Supreme Court explained that its holding "reflects two evident judgments." First, "institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life." Second, "confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."

Considering the long history of our community's move away from segregated institutionalization and our significant progress toward community services and living, we support the following recommendations, echoed throughout the disability community:

- ✓ Expand access to intensive community-based treatment options and supportive services, including housing.
- ✓ Explore standardizing the use of Psychiatric Advance Directives
- ✓ Improve access to publicly-available data about LPS Holds and Conservatorships
- ✓ Ensure that LPS conservatorship is in fact the least restrictive alternative.
- ✓ All people detained on LPS holds and conservatorships should have the right to appropriate treatment and that substantive efforts are made to make this a reality.



- ✓ Require a conservatorship investigator or other designee to engage a proposed conservatee in intensive voluntary treatment before recommending a conservatorship.
- ✓ Require a conservatorship investigation report to provide information about considered alternatives to conservatorship and possibilities for less-restrictive implementation of conservatorship
- ✓ Require transition planning for people released from both short-term LPS holds and long-term LPS conservatorships.

In closing, as legislators consider ways to improve the LPS Act, please do not hesitate in reaching out to us to discuss the impacts on individuals with intellectual and developmental disabilities. As a state agency with decades of expertise and the lived experiences of self-advocates, we bring an important perspective from over 330,000 Californians.

If you have any questions please do not hesitate in contacting our Deputy Director of Policy and Public Affairs, Bridget Kolakosky at 916-206-4055 or bridget.kolakosky@scdd.ca.gov

Sincerely,

A handwritten signature in black ink that reads "Wesley Witherspoon".

Wesley Witherspoon,
Chair, State Council on Developmental Disabilities