SCOPE:

State mental hospitals admitting adult patients serving sentences in state correctional institutions and/or county jails.

PURPOSE:

This Bulletin updates Mental Health Bulletin SMH 94-01, by providing policies and procedures which extend to victims of personal injury crimes the right to notification of the state mental hospital admission, discharge, transfer and escape of convicted offenders sentenced to both county jails and state correctional facilities.

The responsibilities of the Department of Welfare commence on the effective date of this bulletin.

BACKGROUND:

Act 155 of 1992 established the Crime Victim's Bill of Rights, which extended to victims of personal injury crimes the right to be informed of and provide input into an array of criminal justice proceedings, including the right to be notified of the state mental hospital admission, discharge, transfer and escape of an offender under sentence to the Department of Corrections, if the victim desires such notice. To comply with this Act the Office of Mental Health implemented the DPW Victim Notification program in 1994, as promulgated by Mental Health Bulletin SMH 94-01. In March 1995, Act 2 amended Act 155 to extend many of these rights, including the right to notification of state mental hospital admission, discharge, transfer or escape, to victims of offenders sentenced to jails operated by a county or county joinder. Act 2 also expanded the definition of personal injury crimes to include “violations of any protective order issued as result of an act related to domestic violence.” Both Acts amended the Pennsylvania Code of 1929, Sections 479.1, 479.3, and 479.6-11, 71 PS Sections 180-9.1 et seq. Copies of Act 2 and Act 155 may be found in Attachment A.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO: Bonnie Bardenstine, Bureau of Adult Services, Office of Mental Health at (717) 787-1948.
Patients not covered by Act 155 as amended retain all confidentiality protections provided by the Mental Health Procedures Act. Victims not entitled to notification of state mental hospital admissions, discharges, escapes or transfers include:

1. victims of persons who have been charged but not convicted of personal injury crimes, or convicted of crimes not defined as personal injury crimes by Act 155, as amended by Act 2:

2. victims of juvenile offenders under the jurisdiction of the juvenile justice system;

3. victims of persons adjudicated NGRI of any crime.

The Governor's Office of General Counsel has determined that the rights of victims under Act 155, as amended, shall also be extended to victims of offenders serving sentences which commenced prior to the effective dates of the Acts.

The statutory duties of the State mental hospitals under Act 155, as amended, to notify victims when certain offenders are discharged, transferred or escape from state mental hospitals are not to be confused with any possible obligation to warn potential future victims of a specific threat of future harm posed, in the clinical opinion of treatment staff, by a specific patient. Act 155 requirements for victim notification, as amended, are purely administrative: they imply no clinical perception of the patient’s potential dangerousness or lack thereof.

STATE MENTAL HOSPITAL POLICIES AND PROCEDURES

A. Designation of Responsible Official and Development of Local Hospital Policies and Procedures

1. Each state mental hospital and forensic center admitting offenders sentenced to county jails and/or state correctional institutions shall designate an individual holding a supervisory or management classification as the hospital’s Victim Notification Coordinator (VNC). Duties of this position shall include:

   a. receiving Victim Notification Request Forms and assisting eligible victims to enroll:
   b. maintaining records:
   c. monitoring and evaluating the hospital’s performance under this Bulletin:
   d. maintaining communication with jail wardens. DOC Office of Victim Services staff and victim/witness coordinators in service area counties;
   e. and/or delegating and supervising the above functions.
2. Each state mental hospital and forensic center which accepts admissions of persons serving sentences in county jails and/or state correctional institutions shall:

   a. develop local policies and procedures to implement and monitor the hospital’s responsibilities under this Bulletin:

   b. designate specific staff responsible for specific victim enrollment and notification functions: and

   c. train persons responsible for implementation within 60 days from the effective date of this Bulletin.

B. Policies and Procedures for Victim Enrollment

The right of a crime victim to notification of an offender's hospital admission, discharge, transfer or escape rests upon the victim's voluntary enrollment in the program, which is facilitated by a variety of criminal justice agencies.

Upon sentencing of an offender convicted of a personal injury crime to a county jail or state correctional institution, the District Attorney's Office in the county of conviction must inform the victim of his rights under Act 155 as amended by Act 2, including the opportunity to receive notice of the offender's subsequent commitment to a state mental hospital. Victims who wish to receive notice of commitment complete and mail an enrollment form, provided by the District Attorney's office, to the warden of the county jail or the Office of Victim Services in the Department of Corrections.

The District Attorney's office will also provide eligible victims with a copy of the DPW Victim Notification Program brochure and enrollment form, and inform the victim of the right to be notified of the offender's state mental hospital discharge, escape or transfer while the offender is serving sentence. The brochure and enrollment form describing the Office of Mental Health's Victim Notification Program is found in Attachment B.

State mental hospital responsibilities commence only after an offender is committed to a state mental hospital, and the hospital receives a completed DPW Victim Notification Request Form OR a request by the victim to begin the enrollment process.

To assist state mental hospitals to implement the policies and procedures promulgated by this Bulletin, the Attachments section contains the following: copies of Act 155 as amended by Act 2, which includes the definition of "victim" for the purposes of eligibility determination: a list of personal injury crimes covered by the Acts; a listing of county jails, jail wardens and District Attorneys: a listing of county victim/witness coordinators and copies of the forms to be used for notification purposes.
A DPW Victim Notification Request form must be completed for each victim wishing to be notified of an offender's state mental hospital discharge, transfer or escape. The enrollment form contains information about both the victim and the offender which is critical to effective program performance and compliance with confidentiality laws and regulations. Enrollment may occur in any of the following ways:

1. **Offenders committed at sentencing:**

   If the offender is committed to a state mental hospital at the time of sentencing, the enrollment form may be completed by the victim and the District Attorney in the convicting county. The victim mails the completed form to the hospital. The hospital's Victim Notification Coordinator sends written confirmation of enrollment to the victim, within five (5) working days of receipt.

2. **Offenders committed while serving sentence in a county jail or state correctional institution:**

   If the offender is committed to a state mental hospital while serving sentence in jail or prison, the jail warden or the DOC Office of Victim Services will notify the victim of the date and location of hospitalization. The agency having custody will mail a DPW Victim Notification Program enrollment form, on which the offender information has been completed, to the victim. The victim completes the victim information section of the form and mails it to the admitting hospital. The Victim Notification Coordinator sends written confirmation of enrollment to the victim, within five (5) working days of receipt of the completed form.

3. **Direct enrollment of the victim after offender's hospital admission:**

   If the offender was sentenced and/or committed prior to the effective date of Act 2, or the victim has not received an enrollment form from the District Attorney or the jail warden, or has misplaced the enrollment form, the victim may write or phone the receiving state mental hospital for assistance in enrolling in the program. The Victim Notification Coordinator or designee may obtain victim related information and the offender's name and county of incarceration from the victim, by mail or phone, and shall telephone the appropriate county jail warden and/or county victim/witness coordinator to acquire the needed offender information and confirm the victim's eligibility. The Victim Notification Coordinator will send written confirmation of enrollment or a letter explaining why enrollment may not occur to the victim within five (5) working days.
A completed DPW Victim Notification Program enrollment form is valid only so long as the patient is serving sentence for the crime committed against the enrolled victim. Patients with repeated forensic hospitalizations should not be presumed to be serving sentence for the same crime(s) against the same victim(s) as was the case in previous hospitalizations. The Victim Notification Coordinator must ascertain whether the patient's previous sentence is still in effect when the patient is readmitted, and whether new sentences have been imposed during the period between hospitalizations. If an offender is serving more than one sentence for more than one crime, there may be multiple victims with a right to request notification.

If a request for enrollment in the DPW Victim Notification Program is received regarding a patient who is not sentenced to the Department of Corrections or a county jail, or has not been convicted of a personal injury crime as defined by the Act, or from a victim who is not eligible to enroll under the act, hospital staff shall inform the victim in writing of the reasons that enrollment may not occur. The hospital may contact DPW regional legal counsel for assistance in resolving disputes over eligibility with the District Attorney or county victim/witness coordinator's office in the county of the patient's conviction.

C. Victim Confidentiality

Act 155, Section 479.10, specifically guarantees the confidentiality of victims enrolled in the Victim Notification Program. The identity of victims enrolled in the program and information provided to the hospital by or about the victim, orally or in writing, may not be disclosed to the offender, community health or mental health providers, external advocates, the county mental health program or any party other than a law enforcement agency, corrections agency or prosecutor's office, without the victim's prior written consent. UNDER NO CIRCUMSTANCES MAY STAFF REVEAL TO ANY PATIENT THAT ANY VICTIM IS ENROLLED IN THE PROGRAM OR PROVIDE THE PATIENT WITH ANY OTHER INFORMATION ABOUT THE VICTIM, EITHER ORALLY OR IN WRITING, UNDER PENALTY OF LAW.

D. Maintenance of Victim Notification Records

1. The Hospital's Victim Notification Coordinator shall maintain a permanent file of all completed Victim Notification Program enrollment forms, up-to-date addresses and phone numbers of victims enrolled in the program, and copies of correspondence between the hospital and the victim.

2. The Victim Notification Coordinator shall notify the appropriate treatment team when a victim enrolls in the program, and provide the assigned team member with copies of the completed DPW Victim Notification Program enrollment form and copies of any subsequent records of victim notification of discharge, transfer or escape, which shall be maintained in a confidential file located on the patient's ward. The contents of this file may not be reviewed by or discussed with the patient, external advocacy organizations and subsequent providers of treatment, unless the victim has
provided written consent for review by a specific party. The medical record may be
discretely flagged (i.e., a colored dot in the corner of the cover) to denote that victim
notification of transfer, discharge or escape is required.

3. In hospitals where all notification functions, per se, are decentralized
and delegated to specific treatment team members on each ward, provision for access
to the confidential file by a nursing supervisor shall be made to ensure that emergency
notifications occur in the absence of the responsible team member.

4. In hospitals where all notifications are performed by the VNC or
other designated individuals on a hospital wide basis, no confidential ward file need be
maintained. However, access to the VNC's files during off-duty hours must be ensured
and a reliable mechanism for prompt notification of patient status changes between ward
staff and the VNC and his/her designees must be in place.

5. When the patient is discharged or transferred to another state mental
hospital, the ward file shall be forwarded to the VNC for disposal or transfer to the
receiving state mental hospital, as applicable. The Victim Notification Coordinator's file
should be maintained indefinitely.

E. Procedures for Victim Notification of Patient Discharge to a County
Jail or State Correctional Institution

Within 24 hours AFTER the patient's hospital discharge to the custody of
the county jail or state correctional institution, the Notification of Discharge or Transfer
Form found in Attachment D of this Bulletin shall be completed and sent to the victim by
overnight mail, return receipt requested. Copies of this Notification Form and the return
receipt shall be maintained in the confidential ward file and in the central file maintained
by the Victim Notification Coordinator.

F. Procedures for Victim Notification of Patient Transfer to Another
State Mental Hospital

When a patient under sentence to a county jail or state correctional
institution is transferred from one state mental hospital to another, the victim shall be
notified within 24 hours after transfer by overnight mail, found in Attachment D. Copies of
this Notification Form and the return receipt shall be maintained in the confidential ward
file and in the central file maintained by the Victim Notification Coordinator, together with
the return receipt.

G. Notification of Victim of Rights Expiration under Act 155

When the hospital is informed in writing that the patient has been
pardoned or paroled, or that maximum sentence has been served while the offender is
under commitment to a state mental hospital, the enrolled victim shall be informed that no further notification of hospital escape, discharge or transfer of the patient is permissible under Act 155, as amended. The Notice of Victim Rights Expiration Form, found in Attachment E of this Bulletin, shall be completed and mailed to the enrolled victim. This form explains that confidentiality rights provided by the Mental Health Procedures Act prevent routine notification of victims of the status of a patient in the mental health system who is no longer covered by Act 155, as amended.

H. Escape Notification Procedures

1. In the event that a patient serving sentence escapes during commitment to a state mental hospital, person(s) designated by the hospital superintendent shall immediately notify the enrolled victim by telephone. If phone contact with the victim has not been successful within two hours, a telegram containing pertinent information shall be sent to the victim, containing the name(s) and phone number(s) of a contact person at the hospital who may be reached for additional information. The victim should be informed of the time and place of the escape, and the actions that have been taken to apprehend the escapee; i.e., notification of state and local police and the District Attorney, search being conducted, etc.

   If both telephone and telegram contact is unsuccessful or unavailable, the hospital should contact local or state police to deliver the message to the victim's home.

2. When the hospital apprehends an escaped patient covered under this Act, or learns of the patient's apprehension by police, the designated hospital official shall immediately notify the enrolled victim by phone. If phone contact is not successful within two hours, the designated hospital official shall telegram the enrolled victim. The enrolled victim should be informed whether the patient is returning to the hospital or is being discharged to the jail or other correctional authority. If discharge occurs after apprehension, a Notification of Discharge or Transfer Form must also be completed and sent to the enrolled victim.

3. Phone and telegram contacts shall be documented in the confidential ward file and in the central files kept by the Victim Notification Coordinator. These records shall include the time, date, name and title of the caller or person sending the telegram, name and phone number of the person contacted, as well as the information provided to the victim.

I. Temporary Leave of Patients to the Custody of Police, Correctional Officers or Sheriff's Staff for the Purpose of Legal Proceedings

1. Victim notification is not required when a patient is placed on temporary leave to the custody of police, correctional officers or sheriff's staff for the purpose of a court appearance or other legal proceeding, when the patient's return to the hospital under the existing mental health commitment is expected. Hospital officials shall
provide a copy of the completed DPW Victim Notification Form to the police, correctional officers or sheriff’s staff when the patient is temporarily released to their custody, and alert them to their victim notification duties and victim confidentiality rules in the event of the offender's escape or disposition other than return to the hospital. However, if commitment expires during this hospital absence and/or the patient is discharged, the victim shall be so notified by the hospital.

2. If the patient escapes from the custody of the police, sheriff’s staff or jail having custody during temporary leave for legal proceedings, the agency having temporary custody must notify the victim of the escape. If the escapee is ultimately returned to the hospital under the same commitment, the hospital shall notify the victim by phone or telegram according to the procedures described in Section H of this Bulletin. If the escape results in ultimate discharge, the hospital shall notify the victim using the Victim Notification of Discharge or Transfer Form.

J. Death of the Patient During Commitment

If the patient dies while subject to commitment at a state mental hospital, the victim shall be notified by overnight mail, return receipt requested, within 24 hours. If the offender was sentenced to the Department of Corrections, the Office of Victim Services should also be notified at Tel. 800-322-4472 within 24 hours. If the victim is a known family member of the deceased patient, that victim should be contacted by telephone, according to policy applicable to other family members of deceased patients. Time, date, person(s) notified, and by whom, should be documented in the confidential ward files and in the Victim Notification Coordinator files.

K. State Mental Hospitals Shall Not Notify Victims of Patient Discharge, Transfer or Escape under the Following Circumstances:

1. the transport or temporary transfer of a person under sentence from a forensic center or state mental hospital to a clinic or general hospital for medical services, when security continues to be provided by forensic center or sheriff’s staff, or the committing court has not ordered that conditions of criminal detention be maintained, and the patient will be returning to hospital after treatment is completed;

2. the participation of an offender in a community based treatment activity, when the court has not ordered that state mental hospital treatment be provided under conditions which maintain criminal detention; i.e. in a forensic center;

3. the transfer or discharge of a patient to the community, when the patient is no longer under sentence to the county jail or state correctional institution, including persons whose sentences have expired or who have been pardoned or paroled during state mental hospital commitment, when the victim has been informed that rights to notification of hospital status under Act 155, as amended, have expired.
(Notification to the victim of parole, pardon and sentence expiration must be provided by the county authorities having jurisdiction, and is subject to special conditions described in the Act.)

L. Victim Responsibilities:

The victim bears the responsibility to enroll in the Victim Notification Program, complete and submit to the admitting hospital the DPW Victim Notification Program enrollment form, and to notify the hospital of any changes in name, address or phone number. To protect the victim, changes to name, address or phone numbers must be verified in writing and bear the signature of the victim.


Attachments:

Attachment A: Act 155 as Amended by Act 2
Attachment B: Victim Notification Program Brochure and Enrollment Form
Attachment C: County Jails: addresses, phone numbers, warden's names
Attachment D: Notification of Discharge or Transfer Form
Attachment E: Notice of Victim Rights Expiration Form
Attachment F: County Victim/Witness Coordinators: District Attorneys
Attachment G: Personal Injury Crimes Covered by Acts 155 and 2