



# Memorandum

**TO:** RULES COMMITTEE

**FROM:** Betsy Shotwell

**SUBJECT:** SEE BELOW

**DATE:** May 11, 2004

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Approved

Date

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**SUBJECT: REPORT ON PROPOSED STATE BILLS PERTAINING TO SEXUALLY VIOLENT PREDATORS**

## **RECOMMENDATION**

That the Rules Committee recommend to the Council:

1. Support for AB 493 (Salinas) which would require the county of civil commitment to designate and notify the Department of Mental Health (DMH) of the county agency or program responsible for assisting DMH in locating and securing housing within the county for persons who are about to be conditionally released.
2. Support with an amendment, AB 2450 (Canciamilla) which would require DMH to give notice to specified local authorities when the community placement of a sexually violent predator is proposed to the court with specific conditions required.

## **BACKGROUND**

The City Council at its' March 23, 2004 meeting, addressed the issue of the placement of a convicted sexually violent predator (SVP) in San Jose without the State providing adequate notification to local jurisdictions. Subsequently, Council sent letters of opposition to the current placement process to the State Director of Mental Health and the Contra Costa Superior Court Judge in the Cary Verse community treatment placement case.

In addition, Council requested that the Administration work with State decision-makers to develop stricter notification requirements for State agencies to provide longer advance notification to local communities regarding the proposed release and placement of sex offenders. Council also recommended that staff explore State legislation or policies to better define the overall process for placing sex offenders in local communities and where they are placed; as well as explore legislation or policies that would prevent the placement of disproportionate number of sex offenders in any community compared to the rest of the region to prevent inappropriate concentrations.

The purpose of this memo is to present pending State legislation concerning issues related to the placement of sexually violent predators for possible City positions. These two key bills presented substantially address stronger notification requirements as desired in the March 23 memo from Council and require DMH to adhere to a notification to local agencies including law enforcement. Bills that attempted to go broader this session, have either been defeated, or held in policy committee. No legislation is pending that will give a locality the status of a party to the court proceedings concerning a petition for release. With regards to the placement of SVP's in "inappropriate concentrations," it is the current intent of the legislature to recognize the county of commitment with regards to dispersal. It should also be noted that there are existing DMH policies and standardized terms and conditions that a person must agree to be in order to be placed into a community release treatment program. Additional terms and conditions apply for the protection of minors if the person has a history of sexual offenses involving minors such as proximity to schools or parks.

These two measures address some of the stated concerns of the City of San Jose. Clearly, it is our intent to continue to work with the Legislature, law enforcement and the courts to provide predictability to improve the current system to the benefit of all parties.

## **ANALYSIS**

### **AB 493 (Salinas) relating to violent predators: placement upon release.**

Existing law provides that a person committed as a sexually violent predator may petition the court for condition release with or without the recommendation of the Director of the Department of Mental Health (DMH) and unless otherwise ineligible requires the person placed with an appropriate forensic conditional release program. This bill requires a nonparolee who is conditionally released under these provisions to be placed in the county of civil commitment unless the court finds that extraordinary circumstances require placement outside the county of civil commitment. Extraordinary circumstances are defined as those, which render it inordinately difficult for DMH to place the person in a conditional release program under the substantive and procedural requirements governing the commitment and release of SVPs.

The bill would also require the county of civil commitment to designate a county agency or program responsible for assisting DMH in locating and securing housing within the county for persons who are about to be conditionally released. When DMH notifies the county of civil commitment of a person's potential or expected conditional release, the county would be required to notify DMH of the name of the designated county agency or program at least 60 days prior to the potential or expected date of release of the person.

The current policy of DMH is to return a SVP back to the county of civil commitment. However, because it is only a policy, judges have the legal authority to release a person to

another county. AB 493 will make conditional release to the county of civil commitment a statutory requirement.

**STATUS:** Passed Senate Public Safety Committee. In Senate Health and Human Services Committee; hearing date pending.

**RECOMMENDED CITY POSITION:** Support AB 493.

**AB 2450 (Canciamilla) relating to sexually violent predators: notice.**

This measure requires the State Department of Mental Health to give notice to specified local authorities when the community placement of a sexually violent predator is proposed to the court. Requires the notice to include the date, place, and time of the court hearing. Authorizes the local agencies to provide written comment to the Department of Mental Health and the court. Requires the DMH to respond to those comments. Requires the court to consider those comments and responses. Deletes the prohibition against notice being given after the release date.

**STATUS:** In Assembly Appropriations; hearing date pending.

**RECOMMENDED CITY POSITION:** Support and amend AB 2450 to clarify that the notice requirements will apply to serial placements.

**COORDINATION**

This memorandum has been coordinated with the Police Department, the City Attorney's Office and the City's Legislative Representative in Sacramento.

BETSY SHOTWELL  
Director, Intergovernmental Relations

RULES COMMITTEE

05-10-04

**Subject: Report on Proposed State Bills Pertaining to Sexually Violent Predators**

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