



Marion County

OREGON

Board of Commissioners

March 17, 2023

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Honorable Tina Kotek
Office of the Governor
900 Court St NE, Suite 254
Salem, OR 97301

Mr. David Baden
Oregon Health Authority
500 Summer Street NE, E-20
Salem, Oregon 97301

BOARD OF COMMISSIONERS

Colm Willis, Chair
Kevin Cameron
Danielle Bethell

CHIEF ADMINISTRATIVE OFFICER

Jan Fritz

Re: Adverse Consequences to Local Communities Arising from the Federal Court Order Limiting Admissions and Services at the Oregon State Hospital

Dear Governor Kotek and Mr. Baden,

On September 1, 2022, federal judge Michael Mosman issued an order in a civil rights case changing Oregon aid and assist law by drastically shortening the period during which criminal defendants may receive restoration services at the Oregon State Hospital (OSH). This order also essentially ended all civil commitments to the state hospital and has left more individuals with untreated behavioral health needs requiring a hospital level of care in our communities.

Marion and Washington counties, along with three district attorneys and five circuit court judges, have been granted amici status in this lawsuit and been very vocal regarding the negative impact this order has on counties. The parties in the case continue to push their agenda limiting OSH admissions, however, with little regard for local input.

The September 1, 2022, order has, and will continue, to impact public safety and the overall health and livability of our communities. Our local communities need support from the State of Oregon in advocating for solutions to the additional public safety and community resource problems caused by this order.

These problems are serious and will not be resolved on their own. For example, because many individuals currently being placed on community restoration would have previously been treated at OSH, more individuals who present a higher-than-normal level of both safety risk and behavioral health concerns now remain in our communities. Community restoration involves service in offices or unsecured residential treatment facilities. Since September of 2022, numerous individuals who have been charged with violent felony offenses in restoration services in Marion County alone have simply walked off their placements.

DRO and the Metropolitan Public Defenders are pushing to have the court order that OSH cannot admit individuals charged with misdemeanor crimes. Many person-on-

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person crimes are misdemeanors. If these individuals require a hospital level of care but cannot be admitted, their charges will not be prosecuted, and they will be released untreated back into our communities.

Below are solutions we continue to seek:

- 1) Return individuals in community restoration to the Oregon State Hospital for additional services if there is a risk to community safety and it is possible that further treatment may restore their ability to stand trial;
- 2) Require the State to develop a long-term plan which would include providing sufficient secure in-patient restoration services for the anticipated need in the next twenty years;
- 3) Require the State to modify its expedited admissions policy so that more individuals can be admitted through the civil commitment process;
- 4) Require the state to retain liability for individuals on community restoration if, under state law, they would have been released from the State Hospital;
- 5) Limit the amount of time an individual may remain in community restoration;
- 6) Allow for a “safety valve” to allow for longer stays at the state hospital if, upon petition by the district attorney, a trial court finds by clear and convincing evidence that a defendant presents specifically identifiable and significant public safety or victim safety concerns; and
- 7) Continue admission of individuals charged with misdemeanor crimes to OSH.

Of these asks, the most pressing is the need for the state to provide more inpatient beds so that severely ill individuals can receive involuntary medication, a process the legislature has authorized only the State to provide. This process would assist in stabilizing individuals so that they are able to begin participating in their own treatment and recovery.

The above list provides some relief to local communities from the impact of the federal order. Getting traction on them continues to be an uphill battle, however, and the State needs to step in to protect our communities.

Thank you for considering our letter. We look forward to working with you on these issues.

Sincerely,

Colm Willis
Chair

Kevin Cameron
Commissioner

Danielle Bethell
Commissioner

(Jurisdiction logos here)