

# Commitment to Change Workgroup Meeting Brief

November 2022

## Overarching Question: Where does the civil commitment process fit into the larger framework of the government's role in addressing behavioral health and public safety?

### Topics

- **Core Principles/Role of Government:** Unifying Core Principles and Role of Government to Address Behavioral Health
- **Science:** Incorporating Science into Civil Commitment Legal Structures
- **Legal Structures:** Evolving Historical Statutes, Rules, and Case Law on Civil Commitment
- **System Reforms:** Integrating Principles, Science, and Law

### Unifying Core Principles and Role of Government to Address Behavioral Health

- Role of government in behavioral health
- Role of justice system in behavioral health
- Integration of behavioral health and justice system principles
- Class-based and race-based inequity of behavioral health care

#### Role of Government Readings

##### [ABA Criminal Justice Standards on Mental Health](#)

*"Officials throughout the criminal justice system should recognize that people with mental disorders have special needs that must be reconciled with the goals of ensuring accountability for conduct, respect for civil liberties, and public safety."*

##### [Dignifying Madness: Rethinking Commitment Law in an Age of Mass Incarceration](#)

*"Modern nation-states have been trapped in recurring cycles of incarcerating and emancipating residents with psychiatric disabilities. New cycles of enthusiasm for incarceration generally commence with well-defined claims about the evils of allowing "the mad" to remain at liberty and the benefits incarceration would bring to the afflicted. A generation or two later, at most, reports of terrible conditions in institutions circulate and new laws follow, setting high burdens for those seeking to imprison and demanding exacting legal procedures with an emphasis on individual civil liberties. Today, we seem to be arriving at another turn in the familiar cycle. A growing movement led by professionals and family members of people with mental health disabilities is calling for new laws enabling earlier and more assertive treatment."*

### Incorporating Science into Civil Commitment Legal Structures

- Unique behavioral health needs of justice-involved individuals
- How intellectual and developmental disabilities, traumatic brain injuries, and dementia fit into the behavioral health system
- Evidence-based behavioral health policies and practices that support individual well-being and public safety

#### Science Readings

##### [Building Bridges Between Evidence and Policy in Mental Health Services Research](#)

*"In contrast to evidence-based health care practices, evidence-based policy making addresses the use of current best evidence to inform health policies, which have an impact on the care of populations of patients."*

##### [Principles of Community-based Behavioral Health Services for Justice-involved Individuals: A Research-based Guide](#)

*"Knowledge about criminal justice procedures, criminal justice professionals, and terminology, and the kinds of experiences people with mental and substance use disorders have with the criminal justice system is essential for serving justice-involved individuals."*

## Evolving Historical Civil Commitment Legal Structures: Statutes, Rules, and Case Law

- Integration of civil commitment process with other court processes addressing behavioral health

### Legal Structure Readings

#### [Civil Commitment and the Mental Health Care Continuum: Historical Trends and Principles for Law and Practice](#)

*“Contemporary commitment proceedings must comport with due process protections under state and federal law, in accord with constitutional rights as recognized by the U.S. Supreme Court; these include a qualified right to refuse treatment and the general right of law-abiding persons not to be confined unless they pose some risk of harm.”*

#### [State Standards for Civil Commitment](#)

Civil commitment laws by state.

#### [Oregon’s Civil Commitment Law: 140 Years of Change](#) (select “Download full-text PDF” on left)

*“However, accumulating evidence suggests many such persons are untreated and live in the community in marginal and often desperate circumstances or are incarcerated in the criminal system. There are strong disagreements over whether the changes in civil commitment statutes, such as those that encouraged increased reliance on dangerousness criteria, should be perpetuated or reversed.”*

## System Reform: Integrating Principles, Science, and Law

- How to frame proposals that are consistent with current political principles and behavioral health science and integrated with state and local processes in both public safety and behavioral health?
- Addressing differences in duties and perspectives on behavioral health by justice system and behavioral health system

### Systemic Reform Readings

#### [Meeting the Needs of Justice-Involved People with Serious Mental Illness within Community Behavioral Health Systems](#)

*“However, the criminalization hypothesis is a limited explanation of the overrepresentation of people with serious mental illness in the criminal justice system because it downplays the social and economic forces that have contributed to justice system involvement in general and minimizes the complex clinical, criminogenic, substance use, and social services needs of people with serious mental illness.”*

#### [Decriminalization of Mental Illness: Fixing a Broken System](#)

*“Policy makers need to provide our courts with better tools to meet this challenge. New legal standards that promote early intervention, combined with easily accessible assisted outpatient community based treatment, will create the best opportunity to begin to reduce the use of jails and prisons as the de facto mental health system.”*

*“The tools currently available to the judiciary fail to meet the challenge of dealing with persons with mental illness. The public safety of our citizens is as much at stake with the improper handling of such cases as is the fair treatment of individuals who have mental illness.”*

The Chief Justice’s **Commitment to Change Workgroup** is charged to undertake a comprehensive review of Oregon’s civil commitment laws with the intent to offer recommendations for reform to the legislature in 2025. The Workgroup acknowledges that Oregon’s civil commitment system is complex and involves multiple entities that come together through the courts. The Oregon Judicial Department will serve as a convener to help the parties reach consensus on needed changes with the goal to better integrate Oregon’s civil commitment system into a coordinated behavioral health care system that both supports people with mental illness and protects public safety.



Commitment to Change Facilitator: [Chris Thomas](#) / Support Staff: [Bri Navarro](#) / Staff Contact: [Christopher Hamilton](#)