

Commitment to Change Workgroup Meeting Brief

January 2023

Overarching Questions: Are the investigator report and subsequent documentation sufficient for judicial decision making? Are the current processes for diversion adequate to ensure that PAMIs receive sufficient treatment and services?

Topics

- **Civil Commitment Investigation**
- **Civil Commitment Diversion**
- **Probable Cause Determination**

Civil Commitment Investigation

- Are the qualification, training, and oversight requirements for civil commitment investigators sufficient?
- Should the civil commitment investigator role be independent from the community mental health program?
- Are the current requirements for the investigation report (narrative and supportive documentation) adequate for the court to make a probable cause determination?
- What are the parameters for report retention and subsequent use?

Statute and Rule Readings

[ORS 426.074 Investigation; procedure; content; report](#)

[OAR 309-033-0900 Statement and Purpose and Statutory Authority](#)

[OAR 309-033-0910 Definitions](#)

[OAR 309-033-0920 Certification of Mental Health Investigators](#)

[OAR 309-0930 Investigation of Person Alleged to be Mentally Ill Person](#)

[OAR 309-033-0940 The Investigation Report](#)

[OAR 309-019-0125\(10\) Specific Staff Qualifications and Competencies \(QMHP\)](#)

Overview Documents

Oregon Civil Commitment Process – Roles and Responsibilities (attached)

Report of Mental Health Investigator: [MHD 309.33-940.pdf \(oregon.gov\)](#) (attached)

[Oregon Center on Behavioral Health and Justice Integration Podcast #13 Nuances and Mechanics of Civil Commitment](#)

Civil Commitment 14-Day Intensive Treatment Period (“Diversion”)

- Who should be eligible for diversion, and should objective criteria be established by statute or rule for entry into and release from diversion?
- Who should be involved in decision of whether to offer diversion?
- Should a lack of local resources be a permissible basis not to offer diversion?
- Do all Persons Alleged to Have a Mental Illness (PAMI) have the legal capacity to choose diversion? Should there be an individualized assessment for legal capacity and/or lawyer consultation prior to consenting to diversion?
- Is a 14-day maximum diversion period sufficient?
- Should the CMHP have statutory duties to continue outreach, engagement, and monitoring of the individual following diversion?
- Are there other options that we should consider following the notice of mental illness in addition to proceeding to hearing or a 14-day diversion?

Statute and Rule Readings

[ORS 426.237 Prehearing detention; duties of community mental health program director; certification for treatment; court proceedings](#)

[OAR 309-0260 Diversion from Commitment Hearing](#)

Overview Documents

Oregon Civil Commitment Process – Roles and Responsibilities (attached)

Provisional Substantive and Procedural Guidelines for Involuntary Civil Commitment (attached)

Probable Cause Determination

- Should all investigation reports be reviewed by a judge before making a probable cause determination?
- Should the investigation report include a recommendation of law as to whether probable cause exists for the court's determine on whether the PAMI is a person with mental illness or that the person is in need of assisted outpatient treatment (or should report be limited to providing the information the court needs to make its determination)?
- Should the investigator apply case law standards when making a probable cause recommendation to the court?
- What checks and balances between the behavioral health and justice systems are necessary to ensure that the civil commitment system provides equal access to care for all people alleged to have a mental illness?
- Should the judge's probable cause review include a checklist of the required narrative information in the report submitted to the court and to support or fail to support the investigator's recommendation (particularly important when investigator concludes that probable cause for a hearing is lacking)?

Overview Reading

[ORS 426.070 Initiation; notification required; recommendation to court; citation \(5\)\(a\)](#)

[ORS 426.130 Court determination of mental illness; discharge; release for voluntary treatment; conditional release; commitment; assisted outpatient treatment; prohibition relating to firearms; period of commitment \(1\)\(a\)](#)

Civil Commitment Training Manual Excerpt (attached)