

**CTC Workgroup Feedback Session with Oregon Tribes
Friday, March 15, 2024**

Facilitator: Chris Thomas

Tribal Participants: Brandon Tupper, Brent Leonhard, Caroline Cruz, Darryl Scott, Dee Butler, Forrest Pearson, Matt Johnson, Mike Collins, Mike Erickson, Sarah Monkton, Shana Radford, Vernon Alvarez

Workgroup Staff: Debra Maryanov, Laura Cohen

Other Attendees (OHA and DOJ staff): Angie Butler, Cissie Bollinger, Terry Schroeder, Zach Thornhill, Julie Johnson, Kailana Piimauna, Melissa Farin

NOTES

Chris welcomed attendees and provided a brief overview of the Commitment to Change Workgroup. She explained that the workgroup is looking to explore civil commitment in a different way. It is trying to get a multitude of perspectives from everyone touched through civil commitment and believes it is important to communicate with communities to get depth and breadth. The workgroup report will reflect all issues that were discussed in the workgroup, not just the loudest voices.

Brent Leonhard commented that we need significant statutory changes for tribes to independently operate their own systems and that he had a lot of pushbacks several years ago when drafting legislation that would allow tribes to do it themselves but would require a finding required under Oregon law. He would like tribes to be able to decide for themselves what the right model for involuntary commitment should be.

Julie Johnson acknowledged Brent's comment and recognized that tribes want to govern their own processes. However, she explained that the state statute doesn't allow that. She said they tried to change it but didn't get to what the tribes want and need. This isn't always about life/death, but rather danger to self or others. Tribal communities are really suffering and asking for an avenue to manage civil commitment from their tribal courts that honors tribal sovereignty. She noted that there are many ways to do civil commitment differently than what Oregon does, different models that tribes might elect to use that are constitutional. If state agencies are trying to honor tribal sovereignty in a true fashion then we need to stop and listen. Not just listen to hear, but also support making this happen.

Zach Thornhill added that, as we look to future, one key takeaway statutorily is access to OSH through civil commitment. Tribal courts can civil commit as they do, but there's no way to formally commit from tribal court to the Oregon State Hospital (OSH). We need equitable access to the state hospital. So if civil commitment looks different in tribal courts than it does in circuit courts, how do we guarantee equitable access to OSH that way?

Brent Leonhard asked, when you say equitable access, do you mean tribes having access the way the state does? He said that he got major push back from state agencies saying they can't do it because

tribes treat their civilly committed individuals differently than in state process. The only way would be to follow same rights/rules for state commitment, which is what tribes want to avoid.

Zach Thornhill responded that when referring to equitable access, OSH has their own admissions criteria that as a separate behavioral health division that the Oregon Health Authority (OHA) doesn't manage. OSH has its own division under OHA. It has to be same civil commitment threshold/standard for what civil commitment needs are for someone to be civilly committed but have same access to OSH. If threshold is different but both allows people to enter within different pathways, then that's equitable access. The problem is that tribes have different standards than the state of Oregon and should be recognized by OHA for commitment into OSH.

Kailana Piimauna said that she was also part of the previous legislative workgroup. Some concerns were about the US Constitution and ensuring that if state is infringing on liberty the tribes were held to the same standard. Same civil commitment standard for everyone. Otherwise, there would be equal protection problems and due process issues. The current civil commitment standard isn't the right standard. It's a high standard and might need revision, but she was concerned about if there were a different standard and OSH were required to involuntarily hold them. OSH determines when someone is discharged so the standards need to be the same. Under federal orders, OSH isn't a resource right now for civilly committed people. OSH is only allowed to admit civilly committed people that meet expedited admission criteria. Oregon can't change that unless the federal court order changes. Very few beds for civilly committed.

What are you seeing in tribal communities and how does that work/not work with where the standard is for civil commitment? Thoughts on how that should be changed? Define danger to self/danger to others/unable to care for basic needs?

Brent Leonhard stated that it's not just limited to dangerous to self/others. The danger can be much broader. There are statutory fixes that can be pulled from other state models.

Sarah Monkton agreed that the current standard as it's being applied leaves many people vulnerable. It requires violent behavior. Many individuals may be gravely mentally ill but somehow don't meet the standard. There is a jurisdictional issue in the inability of the tribal court to have its orders recognized and have people admitted under authority of tribal court.

Zach Thornhill asked about ancillary services/interventions that play a less invasive/restrictive role in things like emotional/verbal abuse or violence, such as adult protective services. He asked if tribal governments are in talks with the Oregon Department of Human Services (ODHS) and Aging and People with Disabilities (APD) about ways to utilize that option more collaboratively.

Brent Leonhard said they have had very few committed because they weren't found by the state to meet the standard. They even tried the process where two people can file a declaration or petition to start the process.

Caroline Cruz commented that by the time they get through the red tape, the person is no longer in crisis. By the time it makes it to circuit court, they release them because they don't consider them to have a right over a sovereign nation or want to get involved. She wants tribal courts to be recognized as same status of circuit courts. Want to make sure we don't want to do something that creates backlash on tribal agencies as well.

Are any tribes interested in developing their own intensive behavioral health care services if funding were available? Or is it preferable to coordinate with state and county facilities?

Brent Leonhard explained that Umatilla doesn't have a facility to involuntarily commit. They also have not been able to contract with community facilities.

Even if authority was there, resources aren't available right now. What resources would you like to see?

Caroline Cruz responded that they don't have services, and that's why they're trying to get them committed to get evaluated by professionals who could diagnose severe mental health disorders. Mental health therapists don't have training to handle severe mental health cases. They need community-based programs to serve mental health population but still don't have capacity to deal with this population. They don't have anywhere to place individuals and that's why they are trying to go through the civil commitment process for individuals that are declining rapidly/more severely. They are looking at implementing cottages near transitional homes with staff onsite so they can access resources that they need. It will be considered supportive housing so they hope they can become independent. Affordability based on income. She doesn't know how well it will work. They need at least a year to determine data. There are some concerns that housing a large amount of individuals with same behavioral health issues might create increased problems.

Mike Erickson said he feels like it's revolving door. Dual diagnosis creates larger barriers. There is a lack of acute care facilities for mental health and substance use disorder. If an individual could be stabilized, get medications, and create structure, they might get to the point where they don't need to be committed. They don't have resources to get someone stabilized for 12 weeks.

Brent Leonhard added that the other option is for the state to change its civil commitment standards to reflect the current realities and needs and look at how other jurisdictions have done things with tribal input on redrafting the civil commitment statute. It needs to be a lower bar than currently exists, but that also means the state would need the resources to handle more cases.

Where do you see the standard needing to go to fill gap for people to get help earlier to avoid tragic consequence?

Mike Erickson said they need options in the middle. It's either commitment or stabilization and there's nothing else for them to do.

Zach Thornhill responded that he wanted to bring hope by emphasizing that Eastern Oregon will be having 10 inpatient civil commitment beds coming onboard within next month or so and operated by CCS. CHI Mercy in Roseburg will also be getting 12 beds in next few months. He added that he was excited to hear about the cottages. The continuum needs to be filled out. He asked about the residential system, what OHA can we provide, and how we be more innovative. We need partial hospitalization and intensive outpatient, but where do people live while in those programs? Supportive housing creates safe place, monitoring, reminders to take medications. Zach explained that OHA reworked the County Financial Assistance Agreements (CFAA) to provide civil commitment services. Two notices of mental illness (NMIs) in the previous 12 months qualifies to be served under that service element. Community Mental Health Programs (CMHPs) are now able to access that fund to do outreach and prevention and stabilization in the moment for people that have history. Zach suggested that tribes might want to consider pooling resources. CMHPs can still pay for secure transport.

Brent Leonhard responded that not all sovereigns agree on all issues, and that could be recipe for disaster.

Darryl Scott agreed that there's a missing piece between stabilization and commitment. Resources are slim. Darryl said it sounds good to work with other tribes to meet common needs.

Zachary Thornhill commented that OHA makes funding requests every year, and big ones every biennium. When you have a small community to fill beds, the facility has to be multidimensional, multiprogram.

Vernon Alvarez commented that on the law enforcement side, officers have to deal with individuals with mental concerns, along with de-escalation of a very unstable person and to get them to the hospital where they can get treatment and medication.