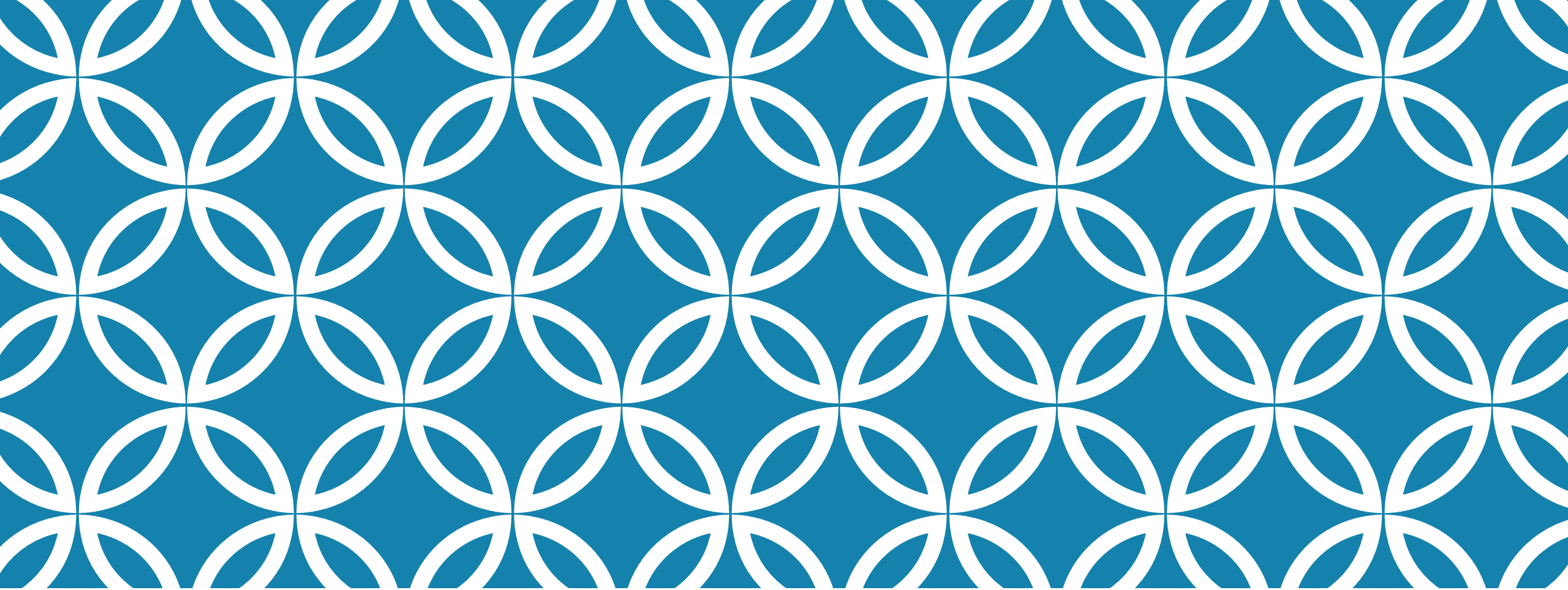


COMMITMENT TO CHANGE WORKGROUP

January 13, 2023

AGENDA

- Welcome – Chris Thomas, Workgroup Facilitator
- Introductions – Workgroup Membership
  - -Who
  - -Representing
- Introduction – Candace Joyner, OJD Behavioral Health and Policy Analyst
- Highest Hopes and Worst Fears
- Review 12/10 Mural Exercise
- 2023 Legislative Session
- Constituent Input
- Civil Commitment Investigations
- Civil Commitment Diversion
- Probable Cause Determination
- Homework

WORKGROUP MEMBERSHIP

Oregon Health Authority- William Osborne

Oregon State Hospital- Dr. Katherine Tacker

Oregon Department of Human Services- Chelas Kronenberg

Disability Rights Oregon- Dave Boyer

Mental Health and Addiction Association of Oregon- Janie Gullickson not available no designee

Oregon Family Support Network- Sandy Bumpus

NAMI Oregon- Chris Bouneff

Oregon House- Rep. Jason Kropf (D); Rep. Christine Goodwin (R)

Oregon Senate- Sen. Floyd Prozanski (D); Sen. Kim Thatcher (R)

WORKGROUP MEMBERSHIP—CONT.

Oregon Criminal Defense Lawyers Association- Allison Knight

Oregon District Attorneys Association- Evelyn Centeno for Scott Healy

Association of Oregon Community Mental Health Providers- Cherryl Ramirez

Association of Oregon Counties- Michael Burdick for Gina Nikkel

League of Oregon Cities- Drew Farmer for Dakotah Thompson

Oregon State Sheriffs' Association- Sheriff Matt Phillips

Oregon Association Chiefs of Police- Jim Ferraris not available no designee

Oregon Association of Hospitals and Health Systems- Danielle Meyer for Meghan Slotemaker

Oregon Judicial Department- Hon. Nan Waller; Hon. Matt Donohue

WELCOME CANDACE JOYNER!

OJD Behavioral Health and Policy Analyst

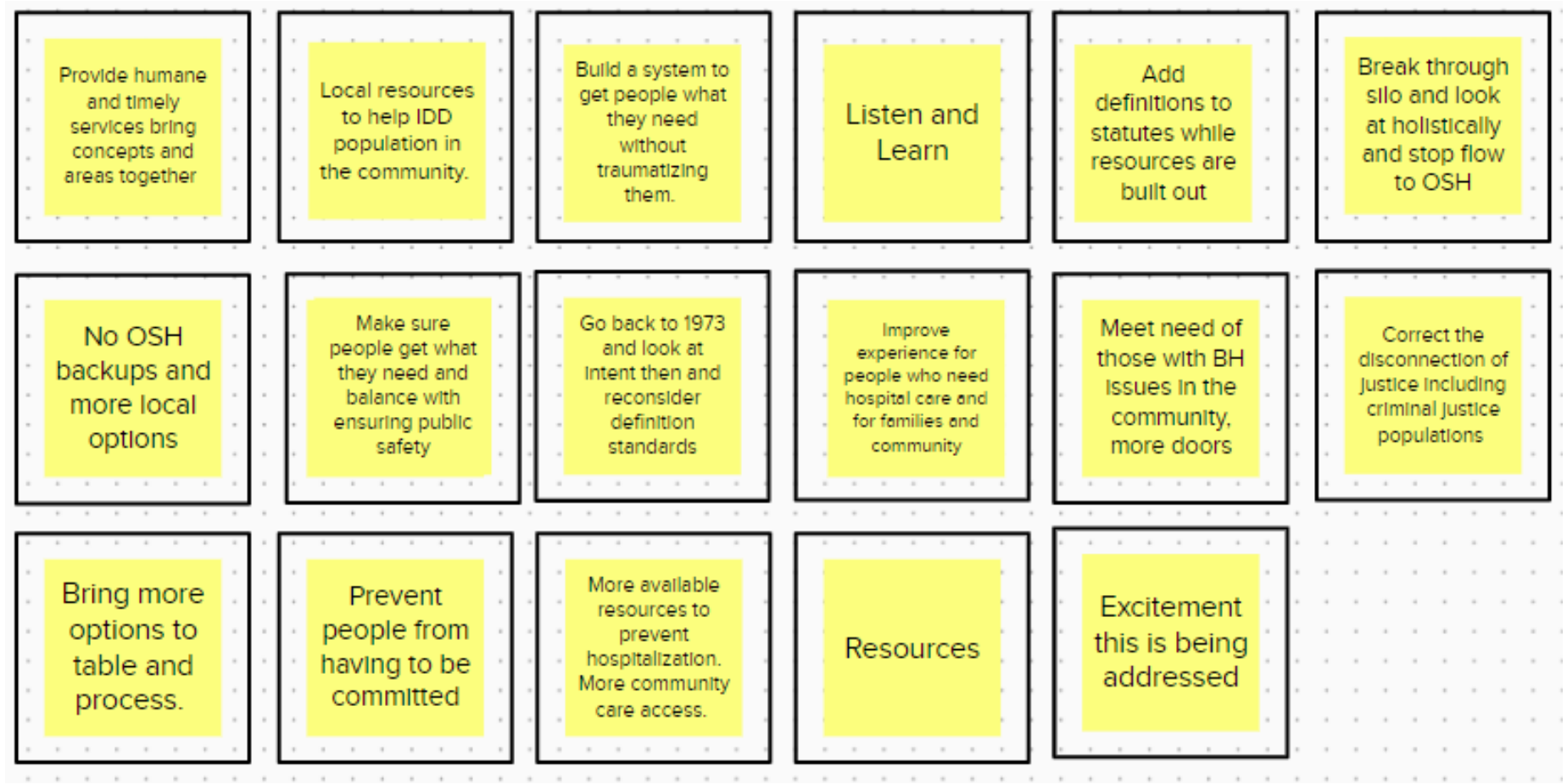
Will support the Commitment to Change Workgroup

Master of Public Health

Thesis: Housing First interventions to improve mental health outcomes among adults experiencing homelessness: A realist review

Doctor of Philosophy: Health Systems & Policy Student

Comes to us from the Oregon Department of Administrative Services where she was a Data & Research Analyst



OCTOBER HIGHEST HOPES

OCTOBER WORST FEARS

DECEMBER MURAL EXERCISE

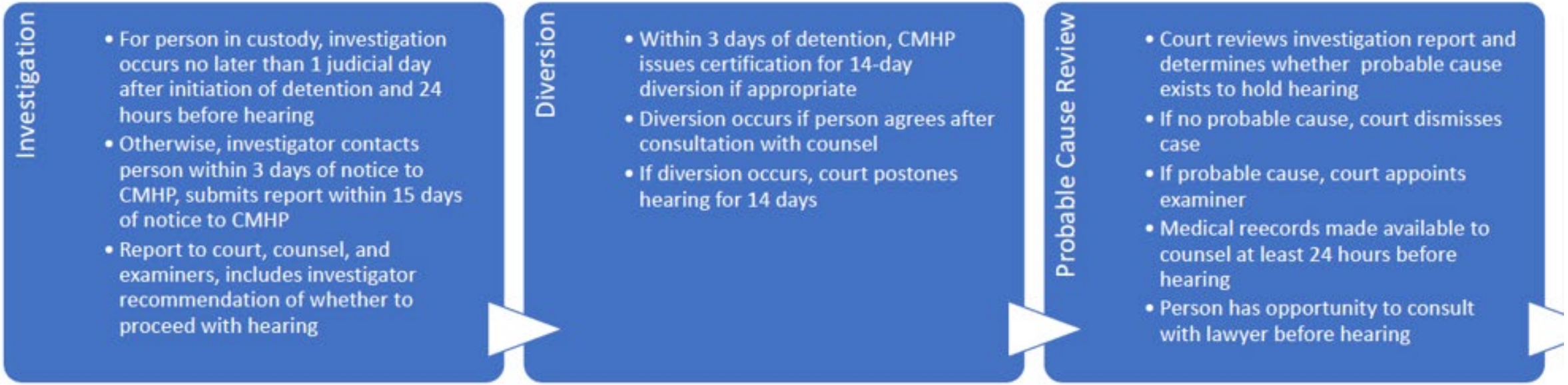
CONSTITUENT FEEDBACK BY MEMBER

My Commitment to Change Workgroup Representative is:

- (106 responses through 1/11/2023)

Answer Choices	Responses	
Dr. Katherine Tacker - Oregon State Hospital	39.62%	42
Chelas Kronenberg - Oregon Department of Human Services (Office of Developmental Disabilities Services)	7.55%	8
Janie Gullickson - Mental Health and Addiction Association of Oregon	7.55%	8
Chris Bouneff - NAMI Oregon	0.94%	1
Cherryl Ramirez - Association of Oregon Community Mental Health Providers	1.89%	2
Sheriff Matt Phillips - Oregon State Sheriffs' Association	13.21%	14
Meghan Slotemaker - Oregon Association of Hospitals and Health Systems	3.77%	4
Judge Waller & Judge Donohue - Oregon Judicial Department	16.04%	17
I am the Workgroup Member – Commitment to Change Workgroup	9.43%	10
	Answered	**106**
	Skipped	**0**

2023 LEGISLATIVE SESSION



CIVIL COMMITMENT OVERVIEW

MENTAL HEALTH INVESTIGATOR QUALIFICATIONS

OAR 309-019-0125(10) . . .QMHPs shall meet the following minimum qualifications:

(a) **Bachelor's degree in nursing and licensed** by the State of Oregon. Nurses are accountable to abide by the Oregon Nurse Practice Act to determine if job descriptions are compliant with the competencies listed above;
(b) **Bachelor's degree in occupational therapy and licensed** by the State of Oregon;
(c) **Graduate degree** in psychology;
(d) Graduate degree in social work;
(e) Graduate degree in recreational, art, or music therapy;
(f) Graduate degree in a behavioral science field; or
(g) A **qualified Mental Health Intern**, as defined in 309-019-0105 (Definitions).

MENTAL HEALTH INVESTIGATOR QUALIFICATIONS

OAR 309-033-0920

(2) Certification of a mental health investigator. The Division shall certify as a qualified mental health investigator, for three years or until such time as the Division terminates the certificate, any person who meets the following:

(a) Is recommended by a director for certification as a mental health investigator; and

(b) Is a QMHP, or on January 1, 1988, has been employed by a CMHP as an investigator for a minimum of two years; and

(c) Has established individual competence through training provided by the Division and within 6 months of the training has passed an examination conducted by the Division in the following areas:

(A) The role and duties of an investigator and the process of investigation;

(B) Oregon statutes and administrative rules relating to the civil commitment of mentally ill persons;

(C) Establishing probable cause for mental disorder;

(D) The mental status examination; and

(E) The assessment of suicidality, assaultiveness, homocidality and inability to care for basic needs.

MENTAL HEALTH INVESTIGATOR TRAINING AND OVERSIGHT

- 12-hour training for investigators provided by OHA
- Certification test
- One person at OHA, Terry Schroder providing this service

Are the qualification, training, and oversight requirements for civil commitment investigators sufficient?

INVESTIGATOR TRAINING EXCERPT

Findings and Recommendations of the Investigator

Based upon the evidence herein set forth below, I ( )do ( )do not find that the person has a mental disorder; and

A. ( )is ( )is not dangerous to self; or

( )is ( )is not dangerous to others; or

( )is ( )is not able to provide for basic personal needs and is not receiving such care as is necessary for health or safety.

B. ( )is ( )is not chronically mentally ill as defined in ORS 426.495; and

( )has ( )has not been twice placed in a hospital or inpatient facility within the previous three years by the Oregon Mental Health and Developmental Disability Services Division under ORS 426.060

( )is ( )is not exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the placements in a hospital or approved inpatient facility, and unless treated

( )will ( )will not continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described in Section A above.

Furthermore, it is my recommendation the above named person ( ) would ( ) would not cooperate with and benefit from a program of voluntary treatment.

It is my recommendation that the Court take the following action:

( ) The Court take no action because there is no probable cause to believe that this person is a mentally ill person.

( ) The Court take no action because this person is willing to participate in treatment on a voluntary basis.

( ) Issue a citation for a commitment hearing and permit the person to remain in their present domicile under their own recognizance pending a hearing.

( ) Issue a citation for a commitment hearing and permit the person to remain in the custody of :

_____, _____
name of hospital or nonhospital facility address

( ) Issue a citation for a commitment hearing and issue a warrant of detention ordering the person to be detained at:

_____, _____
name of hospital or nonhospital facility address

( ) The Court order the person to be prohibited from purchasing a firearm pursuant to ORS 426.130((b)(D).

INVESTIGATOR TRAINING EXCERPT

Standard of Proof

The standard of proof in both original and recommitment hearings is *clear and convincing evidence* for both initial commitments and recommitments. ORS 426.130(1)(b); 426.307(6).

"Clear and convincing evidence" is evidence of "extraordinary persuasiveness," *State v. Linde,* 179 Or App 553,559, 41 P3d 440 (2002), such that the "truth of the facts asserted is highly probable," *State v. Stephens,* 178 Or App 31, 38, 35 P3d 1061 (2001).

C. Danger to others - determined on case-by-case basis

Overt physical acts in conjunction with verbal threats may be enough. *State v. Bodell,* 120 Or App 548,550 (1993); *State v. Pieretti,* 110 Or App 379,383 (1992); *State v. Woolridge,* 101 Or App 390,395 (1990); *State v. Allmendinger,* 36 Or App 381,383 (1978).

OAR-033-0940 THE INVESTIGATION REPORT

(1) Evidence required in report. The investigator shall include in a report to the court, if relevant or available, evidence and the source of that evidence in the following areas:
(a) Evidence which describes the **present illness** and the course of events which led to the filing of the NMI and which occurred during the investigation of the person.
(b) Evidence to support or contradict the allegation that the person **has a mental disorder.**
(c) Evidence to support or contradict the allegation that the person **is a danger to self or others, or is unable to provide for basic personal needs and is not receiving such care as is necessary for health and safety.**

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(2) Documentation of manifestation of mental disorder. The evidence which describes the present illness shall include:
(a) The situation in which the person was found and the most recent behaviors displayed by the person which lead to and support the filing of an NMI;
(b) The sequence of events affecting the person during the investigation period including dates of admission, transfer or discharge from a hospital or nonhospital facility;
(c) Any change in the mental status of the person during the course of the investigation; and
(d) Attempts by the investigator to engage the person in voluntary treatment in lieu of civil commitment and their outcome.

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(3) Documentation of mental disorder. Evidence to support or contradict the allegation that the person has a mental disorder shall include the results of a mental status examination and a psychosocial history.

(a) Mental status examination. A mental status examination shall review the presence of indicators of mental disorder in the following areas:

(A) Appearance. Features of the person's dress, physical condition which may indicate the presence of a mental disorder.

(B) Behavior. Features of the person's behavior, movement or rate of speech which may indicate the presence of mental disorder.

(C) Thought content. Features of the content of the person's speech such as delusions and hallucinations which may indicate the presence of a mental disorder.

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(D) Thought process. Features of the person's expressed thoughts which may indicate that the person is unable to think in a clear logical fashion and which may indicate the presence of a mental disorder.

(E) Insight. Features of the person's understanding of his/her current mental state which may indicate the presence of a mental disorder.

(F) Judgment. Features of the person's judgment about social situations and dangerous situations which may indicate the presence of a mental disorder.

(G) Cognitive testing. Features of the person's ability to concentrate, ability to remember recent and historical events, ability to use abstract thinking, and ability to use or remember generally known information which may indicate the presence of a mental disorder.

(H) Emotions. Features of the person's emotions, such as being inappropriate to the situation, which may indicate the presence of a mental disorder.

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(b) **Psychosocial History**. A psychosocial history shall discuss the presence of indicators of mental disorder in the following areas:
(A) **Psychiatric history**.
(i) History of psychiatric or mental health treatment;
(ii) History of commitments for mental disorder including verification from the Division if available; and
(iii) Current participation in mental health treatment.
(B) **Family history**.
(i) Members of the person's family who have a history of psychiatric or mental health treatment;
(ii) Members of the person's family who have a history of commitment for mental disorder; or
(iii) Reports of family members who appear to have had an untreated mental disorder.

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(C) **History of alcohol or drug abuse**.
(i) History of abusing alcohol or drugs;
(ii) Behaviors which the person may have displayed during the course of the investigation, which are substantially similar to behaviors that indicate the presence of a mental disorder, that may be attributable to the use of alcohol or drugs; or
(iii) If the person appears to have a mental disorder, the effect of the person's current use of alcohol or drugs on behaviors that may indicate the presence of a mental disorder.
(D) **History of a loss of function**.
(E) **Social function**.

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(F) **Personal finances**.
(i) Availability of financial resources to provide for basic needs such as food and shelter;
(ii) Use of financial resources to meet needs for food and shelter; or
(iii) Other features of the manner in which the person uses money which would indicate the presence of a mental disorder.
(G) **Medical issues**.
(i) Medical conditions that may produce behaviors which are substantially similar to behaviors that indicate the presence of a mental disorder; or
(ii) Medical conditions which contribute to the seriousness of a mental disorder which appears to be present.

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(4) **Documentation of dangerousness** and/or inability to provide for basic needs. Evidence to support or contradict the allegation that the person is a danger to self or others, or is unable to provide for basic personal needs and is not receiving such care as is necessary for health and safety shall include the results of an assessment of dangerousness.

(a) An assessment of dangerousness to self shall consider the following areas:

(A) History of thoughts, plans or attempts at suicide;

(B) Presence of thoughts, plans or attempts at suicide;

(C) Means and ability to carry out the plans for suicide;

(D) The potential lethality of the plan;

(E) The probable imminence of an attempt at suicide; and

(F) Available support systems which may prevent the person from acting on the plan.

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(b) An assessment of dangerousness to others shall consider the following areas:
(A) History of thoughts, plans, attempts or acts of assaultiveness or violence;
(B) Presence of thoughts, plans, attempts or acts of assaultiveness or violence;
(C) Means and ability to carry out the plans for assaultiveness or violence;
(D) The potential lethality of the plan;
(E) The probable imminence of an attempt at assault or violence; and
(F) Available support systems which may prevent the person from attempting an assault or an act of violence.

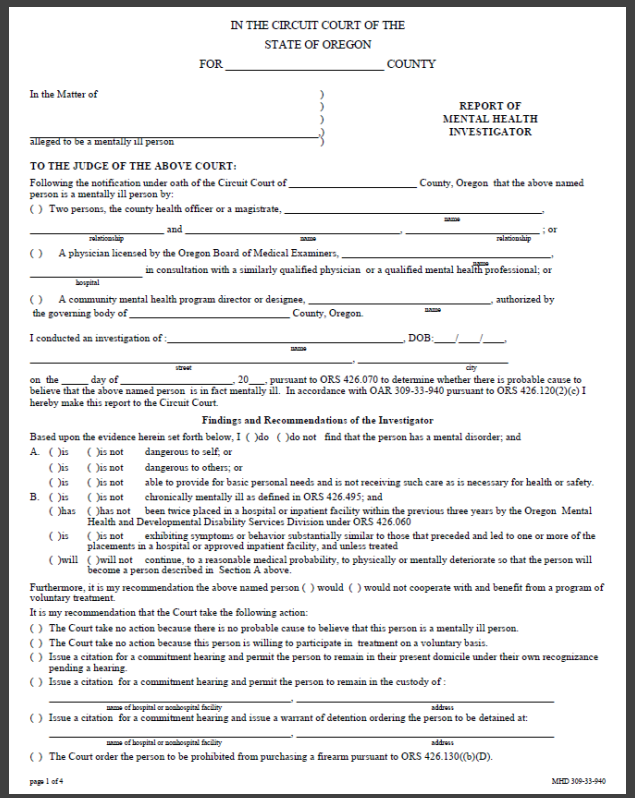
OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(c) An assessment of the person's ability to provide for basic personal needs shall consider the following areas:
(A) History of the person's ability to provide for basic personal needs;
(B) The person's current use of resources to obtain food, shelter, and health care necessary for health and safety;
(C) Behaviors which result in exposure to danger to self or others;
(D) Available support systems which may provide the person care necessary for health and safety; and
(E) If the person appears to lack capacity to care for self, the availability of a guardian who can assure the provision of such care.

OAR-033-0940 THE INVESTIGATION REPORT CONTINUED

(5) Additional report requirements. The investigation report shall also include the following:
(a) The person's consent or objection to contact with specific third parties.
(b) If appropriate and if available from the Division, verification of the person's eligibility for commitment under ORS 426.005(c).
(6) Report availability. The investigation report shall be made available to the facility with custody of the person if the person is committed.
(7) Investigator's responsibilities to the circuit court. The investigator shall file the investigation report with the circuit court twenty-four hours before the hearing and shall appear at the civil commitment hearing.

THE INVESTIGATION REPORT



IN THE CIRCUIT COURT OF THE
STATE OF OREGON
FOR _____ COUNTY

In the Matter of)
)
)
_____)
alleged to be a mentally ill person)

REPORT OF MENTAL HEALTH INVESTIGATOR

TO THE JUDGE OF THE ABOVE COURT:

Following the notification under oath of the Circuit Court of _____ County, Oregon that the above named person is a mentally ill person by:

( ) Two persons, the county health officer or a magistrate, _____ (name).
_____ (relationship) and _____ (name), _____ (relationship); or

( ) A physician licensed by the Oregon Board of Medical Examiners, _____ (name),
_____ (hospital) in consultation with a similarly qualified physician or a qualified mental health professional; or

( ) A community mental health program director or designee, _____ (name), authorized by the governing body of _____ County, Oregon.

I conducted an investigation of :_____ (name), DOB:___/___/___,
_____ (street), _____ (city)
on the _____ day of _____, 20___, pursuant to ORS 426.070 to determine whether there is probable cause to believe that the above named person is in fact mentally ill. In accordance with OAR 309-33-940 pursuant to ORS 426.120(2)(c) I hereby make this report to the Circuit Court.

Findings and Recommendations of the Investigator

Based upon the evidence herein set forth below, I ( )do ( )do not find that the person has a mental disorder; and

A. ( )is ( )is not dangerous to self; or
( )is ( )is not dangerous to others; or
( )is ( )is not able to provide for basic personal needs and is not receiving such care as is necessary for health or safety.

B. ( )is ( )is not chronically mentally ill as defined in ORS 426.495; and
( )has ( )has not been twice placed in a hospital or inpatient facility within the previous three years by the Oregon Mental Health and Developmental Disability Services Division under ORS 426.060
( )is ( )is not exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the placements in a hospital or approved inpatient facility, and unless treated
( )will ( )will not continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described in Section A above.

Furthermore, it is my recommendation the above named person ( ) would ( ) would not cooperate with and benefit from a program of voluntary treatment.

It is my recommendation that the Court take the following action:

( ) The Court take no action because there is no probable cause to believe that this person is a mentally ill person.
( ) The Court take no action because this person is willing to participate in treatment on a voluntary basis.
( ) Issue a citation for a commitment hearing and permit the person to remain in their present domicile under their own recognizance pending a hearing.
( ) Issue a citation for a commitment hearing and permit the person to remain in the custody of :
_____ (name of hospital or nonhospital facility), _____ (address)
( ) Issue a citation for a commitment hearing and issue a warrant of detention ordering the person to be detained at:
_____ (name of hospital or nonhospital facility), _____ (address)
( ) The Court order the person to be prohibited from purchasing a firearm pursuant to ORS 426.130((b)(D).

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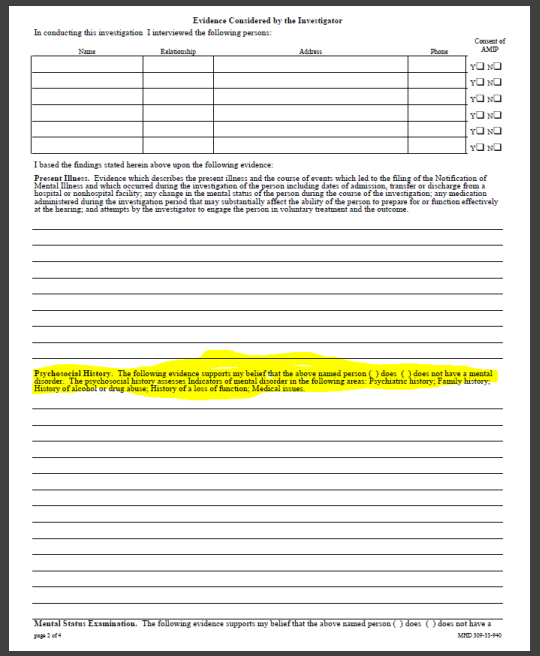
Section Headings

- Findings and Recommendations of the Investigator
- List of persons interviewed
- Present Illness
- Psychosocial History
- Mental Status Examination
- Assessment of Dangerousness
- Ability to Provide Basic Needs

THE INVESTIGATION REPORT- PSYCHOSOCIAL HISTORY



Evidence Considered by the Investigator

In conducting this investigation I interviewed the following persons:

Name	Relationship	Address	Phone	Consent of AMD
				Y☐ N☐
				Y☐ N☐
				Y☐ N☐
				Y☐ N☐
				Y☐ N☐
				Y☐ N☐

I based the findings stated herein above upon the following evidence:

Present Illness. Evidence which describes the present illness and the course of events which led to the filing of the Notification of Mental Illness and which occurred during the investigation of the person including dates of admission, transfer or discharge from a hospital or nonhospital facility; any change in the mental status of the person during the course of the investigation; any medication administered during the investigation period that may substantially affect the ability of the person to prepare for or function effectively at the hearing; and attempts by the investigator to engage the person in voluntary treatment and the outcome.

Psychosocial History. The following evidence supports my belief that the above named person ( ) does ( ) does not have a mental disorder. The psychosocial history assesses Indicators of mental disorder in the following areas: Psychiatric history; Family history; History of alcohol or drug abuse; History of a loss of function; Medical issues.

Mental Status Examination. The following evidence supports my belief that the above named person ( ) does ( ) does not have a

page 2 of 4 MHD 309-33-940

14 lines to capture:

- Psychiatric history
- Family history
- History of alcohol or drug abuse
- History of a loss of function
- Social function
- Personal finances
- Medical issues

Some counties complete electronically on own form, others handwrite.

No requirement for supporting documentation to be submitted with investigator narrative

Should investigators be required to provide all of the information described in OAR-033-0940, or only the information the investigator believes may be relevant to the particular case?

QUALIFICATIONS BY CASE TYPE

Civil Commitment – Investigator	QMHP
Civil Commitment – Examiner	Psychiatrist or QMHP
Aid & Assist Forensic Evaluator – Adult	Psychiatrist or Psychologist
Aid & Assist Forensic Evaluator – Juvenile	Psychiatrist, Psychologist, or Licensed Clinical Social Worker
Guilty Except for Insanity Evaluator	Psychiatrist or Psychologist
Extremely Dangerous Person	Psychiatrist
Extreme Emotional Disturbance	Psychiatrist or Psychologist

How do the investigator's duties inform the qualifications needed for the job? What distinguishes the lower qualifications required for an investigator (QMHP) from the qualifications required for OAR 309-033-0920?
Is determining probable cause what do want investigators to do? Should other entities have input in the court's probable cause determination? (e.g. district attorney/county counsel)

CMHP CIVIL COMMITMENT ROLE

- Receives notice of mental illness; notifies court; initiates the investigation
- Takes person into custody
- Coordinates placement & transfer between facilities
- Certifies and employs investigators
- Provides records
- Prepares reports
- Releases from custody during diversion & discharge from commitment
- Arranges for payments
- Coordinates diversions; outpatient commitments; trial visits; AOT
- Authorizes involuntary hospitalization
- Previously under administrative rules had the discretion to drop a civil commitment when no placement could be found

In light of the CMHPs role in the civil commitment process, including responsibility to pay the cost of treatment, should the investigator position be independent from the community mental health program?

REPORT RETENTION AND AUTHORIZED USE

309-033-0240 Initiation of the Civil Commitment Process

(2) Initiation of commitment proceedings by two persons, a county health officer or magistrate. The NMI shall be given to the director in the county where the allegedly mentally ill person resides. If the person has no residence, then the NMI shall be given to the director in the county where the person currently is located. The director shall file the original NMI with the court on the day the NMI is received or, if the NMI is received outside the court's routine business hours, the next day the court is open for business. The director shall retain a copy of the NMI in the clinical record as required by OAR 309-033-0930, Procedures for the Investigation.

REPORT RETENTION AND AUTHORIZED USE

309-033-0930 Investigation of Person Alleged to Be a Mentally Ill Person

(2) (e) Clinical record required. The director shall maintain a clinical record for every person investigated under this rule. The clinical record shall document to the extent possible the following:

(A) A brief summary of the events leading to the filing of an NMI, the circumstances and events surrounding the interview of the person and the investigator's attempts to engage the person in voluntary mental health services;

(B) Identifying information about the person;

(C) A copy of the NMI;

(D) A copy of the investigation report submitted to the court;

(E) Names, addresses and telephone numbers of family, friends, relatives or other persons who the investigator interviewed for pertinent information. This list shall include the names of the persons filing the NMI with the director; and

(F) Summary of the disposition of the case.

14-DAYS OF INTENSIVE TREATMENT AKA "DIVERSION"

ORS 426.237 PREHEARING DETENTION; DUTIES OF COMMUNITY MENTAL HEALTH PROGRAM DIRECTOR; CERTIFICATION FOR TREATMENT; COURT PROCEEDINGS

(1) During a prehearing period of detention as provided in ORS 426.070, 426.140, 426.232 or 426.233, the community mental health program director shall do one of the following:

(b) No later than three judicial days after initiation of a prehearing period of detention as provided in ORS 426.070, 426.140, 426.232 or 426.233, certify the detained person for a 14-day period of intensive treatment if:

(A) The community mental health program director and a licensed independent practitioner have probable cause to believe the person is a person with mental illness;

(B) The community mental health program director in the county where the person resides verbally approves the arrangements for payment for the services at the hospital or nonhospital facility; and

(C) The community mental health program director locates a hospital or nonhospital facility that:

ORS 426.237

- The word “diversion” does not appear in ORS 426.237 or any civil commitment statute
- In statue “diversion” is identified as “14-day period of intensive treatment” followed by a court order and dismissing the case

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING

(1) Notice to court by director. The director and a psychiatrist may certify a person for diversion at any time up to three judicial days after the person has been taken into custody.
(2) Treatment plan. The director and the treating psychiatrist shall prepare a treatment plan that describes, in general terms, the types of treatment and medication to be provided during the diversion. The general treatment plan shall be descriptive of the range of services and medications to be provided, and shall include a description of:
(a) Any of the following classes of medication, if medication is to be administered:
(A) Antipsychotics;
(B) Antidepressants;
(C) Mood stabilizers;
(D) Anti-anxiety medications; or
(E) Anti-side effect medications.

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

(b) Mental health interventions, therapies or diagnostic procedures to be employed;
(c) The person's preferences about medications and therapies and any limitations on the specific use of medications or therapies to which the director and the treating psychiatrist have agreed;
(d) Location where treatment is to be initiated and the type of hospital or nonhospital facilities where the person may be transferred during the diversion; or
(e) Other conditions or limitations agreed to by the person and the director concerning the care or treatment that is to be provided.

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

(3) Notice to person. At the initiation of the diversion period, the director and the psychiatrist shall inform the person verbally, and in writing, of the usual and typical restraints or seclusion which may be employed in an emergency to assure health or safety.

(4) Psychiatrist to provide information. The psychiatrist shall provide the information described in OAR 309-033-0620, Procedures for Obtaining Informed Consent and Information to be Given, when administering a specific medication.

(5) Consent for non-psychiatric care. A treating physician shall obtain the person's consent for non-psychiatric medical care and treatments which may be prescribed during the diversion. The general treatment plan for psychiatric intervention shall not include plans for non-psychiatric medical care or treatment.

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

(6) Refusal of treatment/demand for discharge. The person on diversion may refuse psychiatric treatment described in the general treatment plan or demand discharge at any time during the diversion by signing the form described in this paragraph or, if the person refuses to sign the form, by verbally making his or her refusal of treatment or demand for discharge known to two staff of the facility. In accepting the person's refusal of treatment or demand for discharge the staff of the facility shall:

(a) Provide the person a warning, both verbally and in writing, at the person's first indication that he/she wishes to refuse treatment or demand discharge, which states:

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

"If you refuse psychiatric treatment described in the general treatment plan or demand to be discharged you may be required to appear at an involuntary civil commitment hearing. It is your right to request an involuntary civil commitment hearing at this time. If a judge finds you to be a mentally ill person you may be committed for up to 180 days. However, if a judge finds you not to be a mentally ill person you may be released. The treatment in which you were to participate as a condition of avoiding a commitment hearing is described in your general treatment plan. You were given a copy of your general treatment plan when you agreed to diversion. You may see the copy of your general treatment plan on file with this facility at any time. You may talk with your attorney before you refuse this treatment, demand discharge or request a hearing."

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

(b) If the person refuses treatment, demands discharge or requests a hearing, offer the person the following form to sign:

"Warning

If you refuse psychiatric treatment described in your general treatment plan or demand discharge you may be required to appear at an involuntary civil commitment hearing. You have a right to request an involuntary civil commitment hearing at this time. If a judge finds you to be a mentally ill person you may be committed for up to 180 days. The psychiatric treatment in which you were to participate as a condition of avoiding a commitment hearing is described in your general treatment plan. You were given a copy of your general treatment plan when you agreed to diversion. You may see the copy of your general treatment plan on file with this facility at any time. You may talk with your attorney before you refuse this treatment, demand discharge or request a hearing.

I refuse the treatment described in my general treatment plan.

I request a hearing before the circuit court.

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

(c) If the person refuses to sign the form described in this section and verbally or nonverbally refuses treatment, the staff of the facility shall document the person's refusal on the form and in the person's clinical record;

(d) Immediately upon the person's refusal of treatment, demand for discharge or request for a hearing, the treating physician shall treat the person as a person in custody, as provided under ORS 426.072, and shall immediately notify the director. The director shall immediately request a hearing.

(7) Director of the county of residence approval of payment for diversion. A person shall be on diversion only if payment for the care, custody and treatment is approved verbally by the director of the county of residence as provided under ORS 426.237. The director of the county of residence's approval shall be documented by a written statement, signed by the director, and distributed by the end of the diversion period as follows:

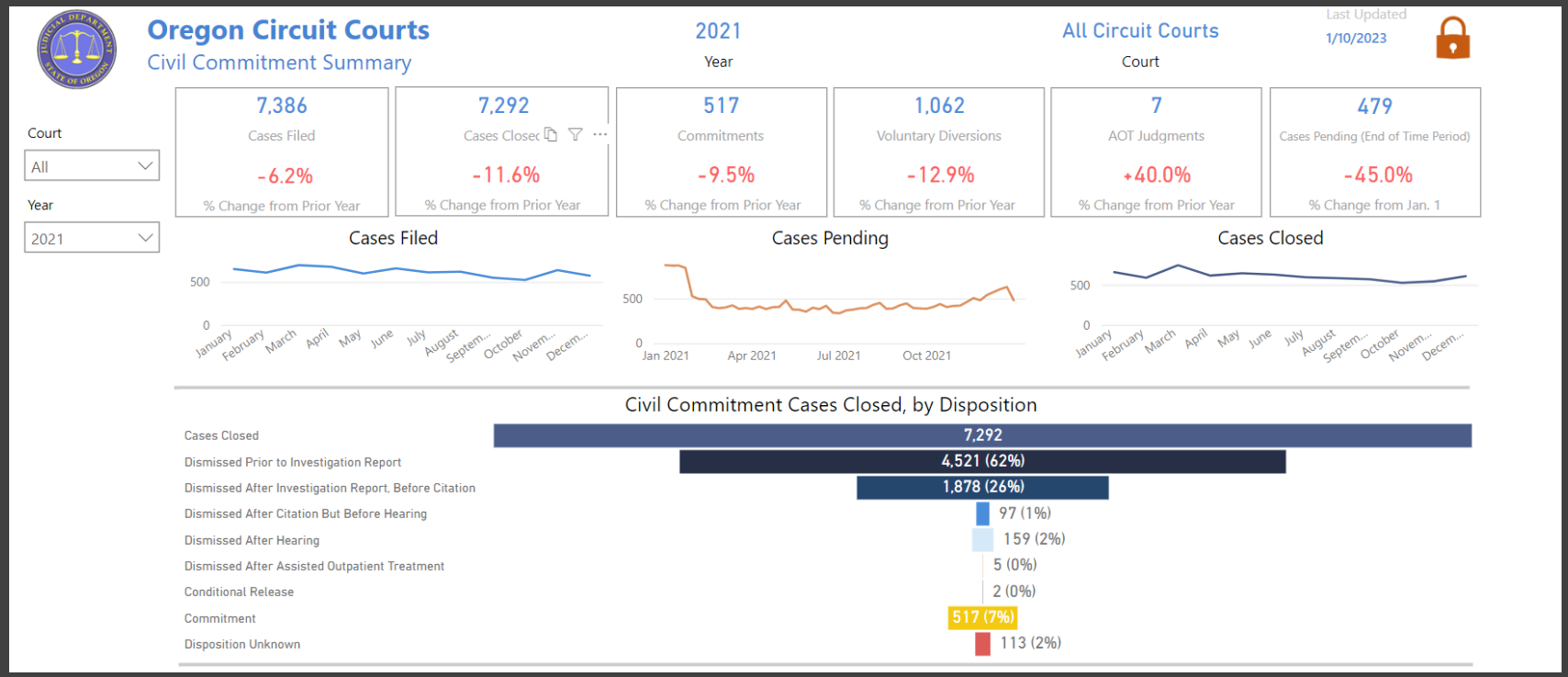
(a) The original shall be filed in the clinical record at the CMHP; and

(b) A copy shall be delivered to each facility serving the person during the diversion.

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

Should objective criteria be established by statute or rule for entry into and release from the 14-day period of intensive treatment?

14-DAY INTENSIVE TREATMENT



Currently CMHPs in consultation with treating provider decide who to offer 14-days of intensive treatment. Is this sufficient input in making this decision?

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

Should the PAMI be assessed for legal capacity and consult with a lawyer before asking for informed consent to diversion?

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

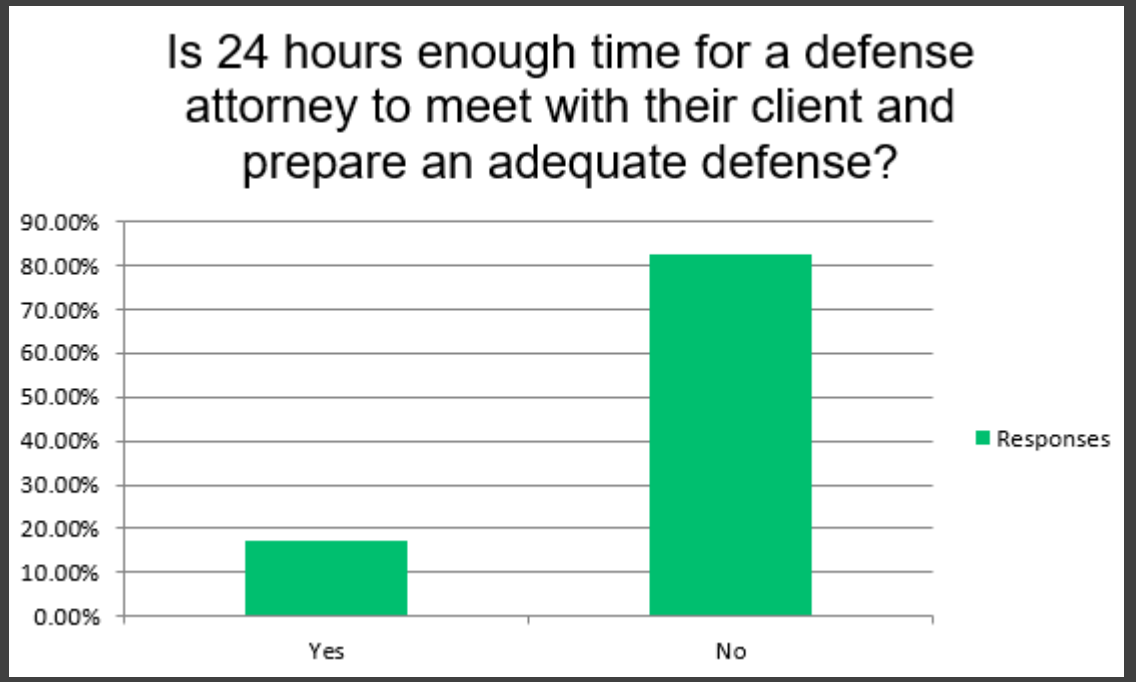
How can we ensure that individuals continue to receive outreach, engagement, and monitoring following 14-days of intensive treatment? Who should be involved in outreach, engagement, and monitoring?

Community Outreach

OAR-033-0260 DIVERSION FROM THE COMMITMENT HEARING CONTINUED

Are there other options that we should consider following the notice of mental illness in addition to proceeding to hearing or a 14-days of intensive treatment?

CONSTITUENT INPUT ON DEFENSE INVESTIGATION REPORT TIMING



CONSTITUENT INPUT ON DEFENSE INVESTIGATION REPORT TIMING

- The attorney needs more time to review information and discuss with their client
- 24 hours is not adequate time
- 24 hours is adequate time records if all witnesses and collateral reports are provided
- At least 7 days or more, time to prepare

CONSTITUENT AOT INPUT

What barriers need to be addressed to allow for the implementation of a robust AOT system in Oregon?

- 72 answers and 34 skipped the questions through 1/11/2023
- 27 identified the need for additional **resources**
- 15 identified the need for available **housing**
- 11 identified the need for additional **workforce availability**
- 10 identified the need for additional **facilities**
- 8 identified the need for medication
- 7 identified the need for defendant assistance and support in coordination of activities
- 6 identified the need for enforcement

ACUTE CARE HOSPITALS

What can be done to make acute care hospitals feel safer while housing and treating individuals who are presenting with acutely dangerous behaviors during the commitment process? (54 answered and 52 skipped at of 1/12/2023

- Adequate staffing
- Acute Care Hospitals are not designed to "house" acutely dangerous patients
- Specialized units

PROBABLE CAUSE DETERMINATION

426.070 Initiation; notification required; recommendation to court; citation.
(3)(c) Initiate an investigation under ORS 426.074 to determine whether there is **probable cause** to believe that the person is in fact a person with mental illness.
(4) Upon completion, a recommendation based upon the investigation report under ORS 426.074 shall be promptly submitted to the court. If the community mental health program director determines that probable cause does not exist to believe that a person released from detention under ORS 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental health program director may recommend assisted outpatient treatment in accordance with ORS 426.133.

PROBABLE CAUSE DETERMINATION CONT.

(5) When the court receives notice under subsection (3) of this section:
(a) If **the court**, following the investigation, concludes that there is **probable cause** to believe that the person investigated is a person with mental illness, it shall, through the issuance of a citation as provided in ORS 426.090, cause the person to be brought before it at a time and place as it may direct, for a hearing under ORS 426.095 to determine whether the person is a person with mental illness. The person shall be given the opportunity to appear voluntarily at the hearing unless the person fails to appear or unless the person is detained pursuant to paragraph (b) of this subsection.
(b)(A) If **the co**urt finds that there is **probable cause** to believe that failure to take the person into custody pending the investigation or hearing would pose serious harm or danger to the person or to others, the court may issue a warrant of detention to the community mental health program director or designee or the sheriff of the county or designee directing the director, sheriff or a designee to take the person alleged to have a mental illness into custody and produce the person at the time and place stated in the warrant.

PROBABLE CAUSE QUESTIONS

What should be included in a judge's checklist of probable cause determination:

- administratively required information submitted to the court
- basis to support or reject the investigator's recommendation (particularly when investigator concludes that probable cause for a hearing is lacking)?

PROBABLE CAUSE QUESTIONS

Access to care and treatment shouldn't be contingent on a civil commitment finding, how do we assure all PAMIs are presented with medically appropriate care options?

When someone isn't civilly committed how do we assure they receive care?

What other options do we want to explore in Oregon for individuals who do meet the bar for treatment?

People for whom there is no probable cause, this is the first crack in system, how do we assure these individuals receive treatment? (what if they don't want treatment?)

NEW FOCUS DISCUSSION

HOMEWORK

- All workgroup members to distribute January survey to their CTC WG constituent email distribution list (and to create email distribution list if have not done so already)
- Read ALL materials provided in advance of the next meeting

NEXT MONTH – FEBRUARY 2023

- Pre-Hearing Requirement
- Examination

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