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February 19, 2013

Senator Floyd Prozanski, Chair  
Senate Committee on Judiciary

Chair Prozanski and members of the Senate Judiciary Committee:

The City of Eugene supports SB 421 and SB 426, bills that were drafted to close a gap in the criminal justice system.

### **Officer Chris Kilcullen**

On May 14, 2010, Cheryl Kidd, a diagnosed paranoid schizophrenic, walked into a Springfield sporting goods shop and bought a .38 revolver. There were no red flags on the State Police background check. On April 22, 2011, Officer Chris Kilcullen attempted to stop Ms. Kidd for running a red light, but she fled. Officer Kilcullen, who was on his department motorcycle, pursued the suspect into Springfield on Highway 126. The vehicle swerved around several cars that were stopped at a red light at 52nd Street and Officer Kilcullen pulled up alongside it and lowered his kickstand. As he indicated for Ms. Kidd to pull over she fired a weapon at him, killing him. Ms. Kidd continued to flee and was pursued by Springfield police officers to a rural area where she finally stopped. She remained in her car for several hours until finally being taken into custody. After the arrest, Ms. Kidd claimed she had tried to shoot someone else in a McDonald's parking lot earlier that day but could not get a clear shot.

Officer Kilcullen had served with the Eugene Police Department for 12 years. He was an extraordinary person and beloved police officer in our community. He is survived by his wife, Kristie, and two children.

### **Background**

In many cases, mental health services are only available to those individuals who are able to accept services voluntarily; the most severely ill are left untreated until their condition deteriorates to the point that they pose a clear and present danger to themselves or others. This raises significant issues where a person has been accused of committing a crime but is found unfit to stand trial.

In Oregon, even when it is clear that the defendant committed the crime for which they have been charged, it is possible for that person to be released after only three years if that person is

found to lack capacity to stand trial. While civil commitment proceedings can be initiated, those proceedings must occur every six months in order for the person to remain committed.

As recent events have underscored, Oregon's justice system needs work in this area, particularly with respect to dangerous or homicidal offenders who are released from custody after being found "unable to aid and assist" in their own defense. Cheryl Kidd, the woman who killed Officer Chris Kilcullen, is still in the Oregon State hospital. We remain hopeful that the hospital will be able to treat her into competence but, if they are unsuccessful, Ms. Kidd may fall into the large justice and community safety gap that we are trying to close.

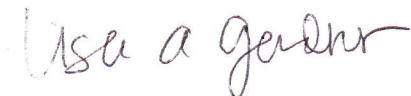
**The Solution: SB 421 and SB 426**

SB 421 and SB 426 are an attempt to improve Oregon's statutory interface between the criminal justice system and dangerous offenders who are mentally ill. SB 421 would allow a District Attorney to initiate civil commitment proceedings if a person has committed a Measure 11 crime and has been found by the court to be unable to aid and assist in their defense. If the person is found to have a mental disease or defect and is dangerous and in need of commitment, the person will be committed to Oregon Health Authority custody for a period between one and five years. If the period exceeds two years, the person can petition the court for discharge after two years of state hospital custody, and then afterward in two year intervals. If the person is still in the state hospital after five years, the process would begin again.

SB 421 and SB 426 close the criminal justice system loophole for dangerous offenders who are mentally ill and unlikely to regain the ability to aid and assist in their own defense, ensuring that they are committed to the custody of the state hospital if they are dangerous and in need of commitment. Furthermore, they expand the current period for review from 180 days (about six months) to two years, avoiding meaningless reviews that are difficult for the offender, and for victims and their families.

Thank you for your consideration of this important legislation.

Sincerely,



Lisa A. Gardner  
Intergovernmental Relations Manager