



PAT FARR

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Mr Chair, and Members of the Committee:

For the record, I am Pat Farr, Chair of the Lane County Board of Commissioners. I am also the current co-chair of the Association of Oregon Counties Health and Human Services Committee, our board liaison to the Lane County Mental Health Advisory and Local Alcohol and Drug Planning Committee, and have been Chairing the recently re-formed Local Government Advisory Committee to the Oregon Health Authority.

You've asked me here to discuss the recent federal court order that addresses the term of participation in a defendant's treatment to gain or regain fitness to proceed. This issue is most definitely on our radar screen, and at the Association of Oregon Counties Annual Conference just two weeks ago there were no fewer than three presentations focusing on behavioral health strategies and Mosman came up during all three.

Some very basic backgrounding. Under Oregon Law in Chapter 430, the state provides funding to County government to operate Community Mental Health Programs. About half the counties, including Lane, directly provide a broad suite of services mandated by the state, albeit with fuzzy language that states "subject to the availability of funds". The other half contract with a non-profit entity to ensure the services are delivered. The Community Mental Health Program Director has a number of statutory duties in addition to those within Chapter 430, one of which involves the so-termed "aid and assist" statutes in Chapter 161. Our CMHP Director ensures that mental health evaluations are available for defendants, and makes recommendations to the Court regarding a defendant's ability to aid and assist in their own defense, or not, as well as providing the court with advice regarding if suitable services exist or not within the community to help the defendant regain their ability to aid and assist in their own defense.

Notably, this body passed SB 295 in 2021, and that measure includes a mandate that a defendant facing only a misdemeanor charge must be provided "restoration" services in the community and except for certain circumstances may not be treated in the State Hospital. Parallel to SB 295, we sought the passage of SB 198. SB 198 would have created an indemnification framework whereby the State or Oregon would defend our employees, or our contractors, as state employees should these defendants commit a crime while receiving community restoration services. That bill died in Ways and Means, but the important thing is that you recognize what we term is the "risk-shift" that occurred with the passage of SB 295. This risk is real. Indeed, at one of the recent Local Government Advisory Committee meetings, Director Allen of OHA told us how this population has required adjustments at the State Hospital due to their behavioral issues. Those issues are not unique to the State Hospital, they also occur when a person is treated

in the community. And sometimes they are tragic. I do not want to contribute to the stigmatization that individuals with mental illness are violent, as the majority of those individuals we treat are successfully able to fulfill their obligation to the court. This stated, Lane County did have a defendant ordered into our care in 2015 who had a mental break that resulted in the deaths of three individuals. And about three weeks ago a homicide occurred in Florence, and the suspect arrested in that case was just five months out of a community restoration process.

The Mosman Order stated that irrespective of whether a defendant is restored or not, they may not exceed 90 days in the State Hospital if the charge is a misdemeanor, 180 days if the charge is a felony, and 365 days if the charge is a measure 11 offense. This means that defendants are now coming back to the community in an un-restored state, and courts frankly don't know what to do with them. Particularly for misdemeanants, their charges are dismissed.

I want to close with three emphases;

- Mosman exacerbates an already risky environment for Community Mental Health Providers and the residential treatment providers that we contract with.
- You will see another indemnification bill introduced in 2023. At the moment it is LC 923, and I've submitted it into the record so you can review it. We ask for your support of this measure.
- I would urge you to review the Dr Pinals report, which I've also placed into the record. Page 11 in particular has data that shows to me that a certain revolving door exists and makes me question the overall efficacy of this procedure for the defendants. Counties are preparing an alternative system that we think will be a superior system for those individuals who commit non person crimes in our communities, and I hope to be able to describe that proposal in greater detail at a future meeting.

Sincerely,

Pat Farr,
Chair, Lane County Board of Commissioners