



Office of the Director

Kate Brown, Governor



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January 7, 2020

The Honorable Senator Betsy Johnson, Co-Chair  
The Honorable Senator Elizabeth Steiner Hayward, Co-Chair  
The Honorable Representative Dan Rayfield, Co-Chair  
Interim Joint Committee on Ways and Means  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301-4048

Dear Co-Chairpersons:

### **Nature of the Request**

The Oregon Health Authority (OHA) requests a 2019-21 budget increase of \$19,417,340 General Fund, an increase of \$134,756 Other Funds limitation, and an increase of \$441,552 Federal Funds limitation for behavioral health budget challenges in the Health Systems Division. This request includes the establishment of 10 new positions (6.30 FTE) for intensive support services and 84 new positions (49.50 FTE) for the Oregon State Hospital.

### **Agency Action**

The Oregon Health Authority (OHA) is submitting this letter for additional behavioral health budget needs not already addressed in its Fall 2019 Rebalance Report and five additional letters regarding the Oregon State Hospital (OSH) capacity, behavioral health community investments, agency position needs, and other budget needs. The purpose of the request is to meet the immediate needs of people sentenced under Oregon's "Aid and Assist" laws (ORS 161.370). OHA will continue work with the Governor's Behavioral Health Advisory Committee to develop a long-term plan and budget request to serve this population.

### **Background**

The number of people sentenced under "Aid and Assist" laws has risen dramatically over the past decade. The Oregon State Hospital (OSH) has seen a doubling of aid and assist admissions over the past 5 years with little indication of abating. Current approaches to provide services to this population are too often not

delivering improved outcomes for the people served directly, local communities, or Oregon's behavioral health system.

For people admitted to OSH, hospitalization is often needed initially to help them stabilize, but the supports and continuity of care to maintain their stabilization are not consistently available. At the local level, law enforcement, jails and emergency departments are consistently reporting stresses on their systems as well as frustration with the lack of effective options. From a broad perspective, Oregon's behavioral health system is strained by insufficient supportive housing for people with serious behavioral health conditions, lack of integrated mental illness and addictions treatment, under-resourced community-based interventions, and limited capacity at OSH to accommodate patients on civil commitments as well as growing Aid and Assist and Guilty Except for Insanity (GEI) populations.

During the past year, OSH capacity challenges have been so great that the state fell into a period of non-compliance with the US Federal Court of Appeals ruling (Mink Order) that requires OSH to admit people committed under ORS 161.370 within 7 days of a signed judge's order. Capacity challenges and efforts to regain compliance with the Mink order are now impacting the hospital's ability to meet the needs of Oregon's civil commitment population. In the past two years, two OSH treatment units were converted from the treatment of patients under civil commitments to those under aid and assist orders, which led the hospital to recently put a 10-day hold on civil commitment admissions. These measures have helped ensure compliance with the Mink order but are operationally and financially straining local acute care hospitals and are compromising timely access to treatment for people with acute psychiatric illnesses. Currently, 59 people await admission to OSH from local acute care hospitals.

The growth of the Guilty Except for Insanity (GEI) population has further strained capacity at OSH. After a decade of steady declines in GEI cases, including a period of relative stability during 2017 and 2018, GEI cases at OSH suddenly rose in 2019. This increase is significant because the average length of stay for GEI patients is 11 times the length of an aid and assist case and 7 times that of a civil commitment case. Longer lengths of stays significantly reduce overall capacity for new admissions. The rise is attributed to both an increase in the number of people with GEI sentences along with fewer discharges for both "natural lapses" and conditional releases. Natural lapses occur when the person's sentence expires.

OSH is pursuing additional data to better understand these recent changes in GEI sentencing.

While there have been several initiatives over the past four biennia to provide targeted funding for community-based aid and assist restoration services, those investments have not met rapidly growing, and increasingly complex, community needs.

- In OHA's 2019-21 budget, the Legislature funded a policy package adding \$7.6 million General Fund to sustain additional community restoration capacity in Multnomah, Lane, and Coos counties, and to develop regional aid and assist services and residential facility capacity at Northwest Regional Reentry Center in Portland. All facilities are now online and accepting referrals.
- The community Mental Health base budget includes \$6.8 million General Fund to sustain historic levels of community restoration services. Most of the funds are targeted to focus on counties with high aid and assist caseloads: Multnomah, Marion, Lane, Washington, Douglas and Klamath counties. Each of these counties has taken a unique, locally-driven approach to manage the community restoration workload while addressing issues of recidivism and diversion.
- While not directly an investment in the aid and assist population, Senate Bill 973 (2019) allocates \$10.6 million General Fund in grants to communities to help reduce jail bookings for people who have a history of serious behavioral health conditions and recurring law enforcement involvement. Goals of the investment include improving community stabilization with housing, employment and addictions treatment while reducing institutional placements. Grants are expected to be awarded by summer 2020.

Oregon has traditionally looked to OSH to be the primary resource meeting the needs of Oregon's restoration population. While OSH plays an important role for many individuals needing restoration, reducing the need for hospital stabilization and helping sustain stabilization afterward is work best done in Oregon communities. Community-based services are the least expensive and most effective care when delivered proactively. Oregon has started the transition to a community-based approach but needs significant investments to achieve that goal.

Agency Request

Due to the need to better understand and then address the underlying causes for recent changes in aid and assist and GEI caseloads resulting in ongoing declines in OSH bed capacity for people who are civilly committed; the unmet need for community restoration services and additional support for communities in the delivery of these services; and lack of appropriate community secure treatment and crisis center capacity options, OHA is requests the following four 2019-21 budget adjustments.

<b>2019-21 Budget Request</b> (in millions)	<b>General Fund</b>	<b>Total Funds</b>	<b>Positions</b>	<b>FTE</b>
Oregon State Hospital Capacity	\$11.5	\$11.5	84	49.50
Program Design and Evaluation Services	\$0.5	\$0.5	0	0.00
Behavioral Health Community Investments	\$6.4	\$6.4	0	0.00
New "Intensive Services Unit" Staff	\$1.0	\$1.6	10	6.30
<b>Total</b>	<b>\$19.4</b>	<b>\$20.0</b>	<b>94</b>	<b>55.80</b>

*Oregon State Hospital Capacity (\$11.5 million)* – To accommodate the increased aid and assist admissions, OHA requests \$11.5 million General Fund and 84 positions (49.50 FTE) to open two 25-bed Secure Residential Treatment Facility (SRTF) units on the Junction City campus effective July 1, 2020. This investment would leverage existing and currently vacant treatment facility capacity on the Junction City campus. The requested staffing level for these two units would align with the current OSH SRTF staffing plan.

*Program Design and Evaluation Services (\$0.5 million)* – OSH requests funding to contract with Program Design and Evaluation Services (PDES) to assess the underlying causes behind the increases in the number of people under aid and assist orders and people found guilty except for insanity and provide recommendations. Specifically, PDES would be asked to evaluate sentencing patterns, transiency, where people are coming from prior to involvement with the criminal justice system, recidivism, and clinical profiles. The latter includes co-occurring substance use disorders and overlaps between the various commitment populations. With a robust evaluation, OHA would be better able to recommend long-term solutions that result in better outcomes.

*Behavioral Health Community Investments (\$6.4 million)* – OHA requests \$2.3 million General Fund to start initial work to develop three 16-bed SRTFs for a total of 48 beds to broaden SRTF options throughout Oregon to help ensure capacity is

available where and when needed. Community-based SRTF's are Medicaid reimbursable when the facility has no more than 16 beds, which significantly reduces the General Fund cost of care compared to providing care at the state hospital. Further funding to complete this work would be requested as part of 2021-23 budget development.

OHA also requests \$4.1 million General Fund for community restoration. OHA has developed an equitable model that would adequately fund restoration services for each person placed in the community under ORS 161.370. Services include:

- Legal Skills Training
- Community Case Coordination
- Community Consultations with the Courts
- Coordination of Behavioral Health Treatment
- Local Data Collection
- Coordination of Services

While this investment would help ensure all Oregon communities have the resources they need to provide effective community-based restoration services, additional resources may be needed due to ongoing fluctuations in caseloads and development of the appropriate service array.

*New "Intensive Services Unit" Staff (\$1.6 million)* – OHA requests \$1.0 million General Fund, \$0.1 million Other Funds and \$0.4 million Federal Funds limitation, and 10 positions (6.30 FTE) to establish a new "Intensive Services Unit." OHA lacks the internal staffing resources to effectively support communities with the clinical and system challenges presented by people who are clinically complex and multi-system involved. This investment would greatly strengthen OHA's ability to improve outcomes for individuals and communities.

This unit would provide oversight and coordination of community-based behavioral services delivered as a result of an encounter with the judicial system through ORS Chapters 161 and 426. This includes coordination of behavioral health treatment services and behavioral health system-related legal activities for:

- Adults on pre-commitment or magistrate holds
- Adults who are civilly committed
- Adults who have been adjudicated Guilty Except for Insanity (GEI)

- Adults and children who have been determined to be incapacitated as a result of a qualifying mental disorder, making them unable to aid and assist in their own defense
- Adults receiving DUII services.

Staff supporting the unit would include existing staff as well as the following requested positions.

- *One Principle Executive Manager G* position for an Intensive Community Services Director.
- *Two Operations & Policy Analyst 4* positions for a Court and Corrections Liaison and a Clinical Technical Assistance for Intensive Community Program Specialist.
- *Four Operations & Policy Analyst 3* positions: an Oregon State Hospital Social Work Liaison, a Community-based Technical Assistance and Contract Administrator, a Co-occurring Treatment Services Specialist, and a Coordinated Care Organization Engagement and Compliance position.
- *One Program Analyst 2* position for Forensic Peer Services.
- *One Research Analyst 4* to identify root causes and trends.
- *One Fiscal Analyst 3* for ongoing financial management.

The unit will provide subject matter expertise for community-focused clinical and legal matters related to civil commitment, pre-commitment holds, GEI, aid and assist, and DUII. In addition, the team will provide system management and planning for services designed to reduce the number of people who enter the service system through these court processes. Using root cause analyses, the unit's goal will be to reduce the number of people accessing the behavioral health system through the court systems and to reduce recidivism for those that do engage through the court systems. Diversion, mobile crisis and housing will be additional areas of focus.

### **Action Requested**

Acknowledge receipt of the report.

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The Honorable Representative Dan Rayfield, Co-Chair  
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**Legislation Affected**

Oregon Laws 2019, Chapter 695, Section 1, Subsection (1): \$7,917,340  
Oregon Laws 2019, Chapter 695, Section 1, Subsection (2): \$11,500,000  
Oregon Laws 2019, Chapter 695, Section 2, Subsection (1): \$134,756  
Oregon Laws 2019, Chapter 695, Section 4, Subsection (1): \$441,552

Sincerely,



Patrick M. Allen  
Director

CC: Tom MacDonald, Legislative Fiscal Office  
Ken Rocco, Legislative Fiscal Office  
Kate Nass, Department of Administrative Services  
George Naughton, Department of Administrative Services  
Patrick Heath, Department of Administrative Services