

MINUTES
Psychiatric Security Review Board
Administrative Meeting
Adult Panel
September 20, 2017
Approved December 6, 2017

An administrative meeting of the Psychiatric Security Review Board was scheduled to convene on September 20, 2017 at 10:00 a.m. in the fourth floor conference room of 610 SW Alder Street, Portland, Oregon 97205. Board members present in person were: Trisha Elmer, P.P.O., Anne Nichol, J.D., and John Swetnam. Scott Reichlin, M.D., attended via phone. Elena Balduzzi, Psy.D., had been present, but due to the hearing's delayed start after 11:00 a.m., she was unable to attend. PSRB staff present in person included Juliet Britton, J.D., Executive Director; Sid Moore, J.D., Deputy Director; and Jane Bigler, Executive Secretary, as note taker. Also present was Harris Matarazzo, Attorney at Law, and Sam Kubernick, Assistant Attorney General.

Ms. Britton called the meeting to order at 11:17 a.m. and asked if there were any public comments. There were none. She then asked the Board to review the minutes from the Joint Panel administrative meeting on June 21, 2017. Mr. Swetnam moved to accept the minutes as written and Ms. Nichol seconded the motion. Dr. Reichlin abstained as he was not present at that meeting. The motion passed unanimously by the remaining members.

Next, Ms. Britton proceeded with the 2017 Legislative Session final wrap-up. Most of the Bills will go into effect on January 1, 2018, the Bills that passed are as follows:

- Restorative Justice (RJ) (Senate Bill 65). Allows the Board statutory authority to start an RJ program, and includes language regarding the confidentiality of any information included in the process. Any RJ records will not be included for any PSRB purposes. More discussion to follow on this topic later in the meeting.

- Length of time for distribution of Board orders (Senate Bill 63). Per statute, distribution of orders used to be required within 15 days of the hearing. With hearing schedules, etc., this isn't always possible, so the length has been extended to 30 days after the hearing.
- Notifications and results provided to the judge from the original adjudication (Senate Bill 63). Language has changed so that the Board will no longer be required to notify the judge of hearings and/or results. However, a judge can opt-in to receive notices at any time.
- Court notification (Senate Bill 66):
 - Sex Offender Registration - The court must, at the time of the adjudication, notify defendants who are required register as a sex offender for the crime(s) that placed them under the jurisdiction of the PSRB of their obligation to register.
 - Gun Rights – At the time of adjudication, the court must notify individuals who are being placed under a civil commitment that they no longer have the right to obtain/own a firearm.
- Elimination of the State Hospital Review Panel (Senate Bill 65)—this change will go into effect on **July 1, 2018**. The jurisdiction of Tier 2 clients currently at Oregon State Hospital (OSH) will be transferred to the PSRB. To date, the number of individuals this will apply to is approximately 80. Mr. Moore, other PSRB staff and OSH staff are working on the process to make this a smooth transition. With the addition of about 80 new clients, there may be a few more hearings than has been necessary with the current number of clients at OSH and

may allow for more OSH (inpatient)-only and PSRB office (outpatient)-only hearings instead of needing a mix of inpatient and outpatient hearings on a docket.

Ms. Britton noted that even though we have just finished with this legislative session it is time to start talking about any legislative concepts the Board wants to present either at the short session next spring or the 2019 legislative session. Other concepts she urges the Board to explore:

- Release of client records - this issue stems from the records release issue last spring when the Oregon Attorney General ordered a discharged client's mental health records to be released. As a result, OSH will no longer share hospital records with the Board.
 - Long-term fix—a proposed legislative fix to require that OSH provide their records to the PSRB, as well as adding language that would protect those documents.
 - Short-term fix until legislation can be passed—the Board will issue a “Protective Order” for all existing and new clients and will subpoena all records from OSH when a hearing is required/requested. The process for evaluations is still being determined.

Other concepts to explore, but will likely not occur until the 2019 session:

- Extremely Dangerous Civil Commit—the Board has received recommendations from certified evaluators, District Attorneys, etc. to clarify the language that directs how a case is handled prior to placement under PSRB. Another issue is the current practice to transfer of a case to the county in which the client resides. District Attorneys indicate they are

not comfortable handling cases for individuals with whom they aren't familiar; they recommend that the case remain with the District Attorney for the county in which the case originated.

- Destruction of JPSRB criminal records—Currently, it is the practice of the courts to expunge all juvenile records 5 years after the date of judgment. This is a problem for some of our youth as they turn 18 years old and are still under the Board. It significantly affects the ability to make an entry into the Law Enforcement Data System if the person absconds from supervision.
- OSH Peer Specialists have requested that the Board consider changing the length of passes that they can approve for clients in the hospital. The length is currently 48 hours which restricts clients who are a part of the peer support program from attending the yearly 4 day training. Dr. Reichlin inquired if OSH leadership supports the request. Ms. Britton indicated that it was too early to tell, but that she didn't anticipate proceeding with the change without their support.
- Clarification of statute regarding revocation as it relates transporting and/or taking clients into custody. Some law enforcement agencies have been reluctant to take an individual into custody on the sole basis of the revocation, even though it is quite clear that is what they required to do.

Last item on the agenda was a deeper discussion of the next steps for the Restorative Justice Program. At the last meeting, Pacific University gave a presentation on Restorative Justice. The new law has now passed and will go into effect on January 1, 2018. Ms. Britton asked the Board members what the next steps are for staff—questions such as: what kind of

resources do we want to expend to this program; who will develop the framework; and others. She noted that at a recent hearing for a new client, the DOJ Victim Advocate shared that there was a victim in the case who indicated he/she would be willing at some point to participate in this program. Ms. Elmer asked if the meetings would happen at Pacific University. Ms. Britton noted that she had received some interest from Portland State University, but Pacific University is more familiar with PSRB and there wouldn't be need for a contract. She will still need to sit down to explore specifics and create the structured framework, and once the framework is determined, then the Board can create OARs to support the program. Mr. Swetnam expressed concern about how much time staff will need to devote to this project versus the number of cases that it will ultimately handle. Mr. Moore responded that the idea is that Board staff won't be very involved, and reiterated that the documents related to Restorative Justice will not be allowed to be included in the client's file for the Board to review. Ms. Britton further noted that this is a work in progress and will take some time to get everything worked out. For reference, she said, it took the Department of Corrections about 4 years to get their program off the ground. This topic will be continued at the next meeting.

Ms. Britton asked members if there were any other issues or policies they wanted to discuss. Ms. Elmer inquired about LEDS and whether or not the Board has the authority to issue a warrant. Ms. Britton explained that the revocation order itself is a warrant and directs law enforcement to transport an individual to the state hospital. This isn't a problem most of the time, but occurs most often when someone absconds out of state. PSRB jurisdiction ends at the state line, so in order to have the individual returned to Oregon and transported to OSH, it often requires a warrant to be issued on a new charge of Escape II from the county in which the escape took place. The District Attorney is more likely to issue a warrant on these charges if police are already in contact with the individual. Once an escape warrant is in place, then arrangements

have to be made to extradite the person back to Oregon. Mr. Moore further clarified that while the transport by police seems to be quite clear in the statute already, law enforcement has indicated that more specific language would be beneficial.

Mr. Swetnam made a motion to adjourn the meeting and Ms. Nichol seconded the motion. The meeting was adjourned at 11:52 a.m.