



Oregon

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TO: Oregon District Attorneys and Victim Advocates

FROM: Juliet Britton, Executive Director
Psychiatric Security Review Board

SUBJECT: Best Practices: Prevention of Pre and Post Trial Victim Contact

This memorandum lays out best practices surrounding no-contact orders when a defendant has been ordered to the Oregon State Hospital (OSH) for restorative services or found “guilty except for insanity” (GEI). It has recently been reported to the Psychiatric Security Review Board that some OSH patients have contacted victims: both pre-trial and following the GEI determination. This memo **recommends that your deputy district attorneys ask for inclusion of “no victim contact” language in all court orders that direct a defendant to be transported or committed to OSH, including “.370” and GEI orders.**

Defendants at OSH: When a court adjudicates a defendant GEI and commits him/her to the Oregon State Hospital for treatment, the defendant has certain rights and responsibilities associated with that placement. Hospitals are not equivalent to jails and therefore both federal and state laws ensure that patients are not treated as inmates. For example, patients must be allowed access to amenities such as communication devices and fresh air (i.e. the opportunity to go outside). Most patients are allowed unsupervised access to mail (both in and out of OSH), computer and phone, therefore, there is a higher risk that the patient has the means to contact victims than he/she would have had they been housed in the corrections system. These rights also hold true for those patients at OSH pursuant to an aid and assist or “.370” order. In most instances, OSH staff does not have authority to limit communication in the absence of a court order.

Oregon Administrative Rule 309-104-0010 supports OHA’s ability to limit *telephone* use by patients, which the agency can use to restrict contact in that manner between patients and victims. It is less clear when OSH has the authority to limit U.S. mail or computer access without a court order. Therefore, the PSRB recommends including the “no contact” clause in any GEI order or any order under ORS 161.370.

GEI Defendants on Conditional Release: It is standard practice that the PSRB/SHRP will include “no contact” victim language in all Orders of Conditional Release (unless the victim has notified PSRB/SHRP that they want contact). If the “no contact” condition is violated, this could be grounds for further media restrictions, a higher level of supervision or revocation from conditional release. **If a court conditional release is ordered, the State should request that a “no contact” provision be included in the court’s Order of Conditional Release.**

Please contact me with questions or concerns at (503) 229-5596 or juliet.britton@oregon.gov.