

**HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW**

**March 30, 1999 Hearing Room 357**

**8:00 a.m. Tapes 110 - 111**

**MEMBERS PRESENT: Rep. Mannix, Chair**

**Rep. Prozanski, Vice-Chair**

**Rep. Bowman**

**Rep. Gianella**

**Rep. Hansen**

**Rep. Simmons**

**MEMBER EXCUSED: Rep. Sunseri**

**GUEST MEMBERS: Rep. Winters**

**Rep. Kropf**

**STAFF PRESENT: John Horton, Counsel**

**Patsy Wood, Administrative Support**

**MEASURE/ISSUES HEARD:**

**\*\*\* Informational Hearing \*\*\***

**Security of mental health inmates at Oregonís mental health facilities.**

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speakerís exact words. For complete contents, please refer to the tapes.

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TAPE/#	Speaker	Comments
<b>TAPE 110, A</b>		
005	Chair Mannix	Calls meeting to order at 8:05 a.m.
012	<b>Barry Kast</b>	<p><b>Administrator, Mental Health and Developmental Disabilities Services Division (MHDDS)</b></p> <p>Discusses the misconceptions about how the Oregon State Hospital operates, the kinds of patients cared for and the procedures currently in place after a recent escape from the Oregon State Hospital's forensic program. Describes the statutory framework for managing forensic patients under ORS 161.295 to 161.400. Discusses an escape in 1991 that caused a review of all hospital policy and a change in staff.</p>
071	<b>Stan Mazur-Hart</b>	<p><b>Superintendent, Oregon State Hospital (OSH)</b></p> <p>Discusses the policies and procedures for receiving and treating patients leading to the eventual discharge of the patient (<b>EXHIBITS A &amp; B</b>). An interdisciplinary treatment team determines a treatment plan and accompanying privileges for each patient. The Forensic Disposition Board (FDB) subsequently reviews decisions of the team. Lists the FDB members. Discusses the OSH/WPSHA Elopement Benchmarking Comparison showing that the OSH has done well in its clinical risk management decision-making. We are reviewing what happened to allow the recent escape, including examining all privileges granted, so it won't happen again. We are also reviewing the Forensic Disposition Board and their decision-making process. We are specifically looking at the handling of money at the Oregon State Hospital.</p>
171	<b>Rep. Jackie Winters</b>	<p><b>State Representative, House District 31</b></p> <p>How does a resident of the Oregon State Hospital earn money?</p>
173	Mazur-Hart	Discusses the programs at the Oregon State Hospital that allow patients to earn money. Money can also be collected into their trust account from friends and relatives.
184	Rep. Winters	Is the trust account maintained just at the hospital or can a patient open an account at an outside bank?
187	Mazur-Hart	They can have accounts outside the hospital.
189	Rep. Winters	Can they access those outside accounts at will?
190	Mazur-Hart	Any money that comes onto the ward is supposed to be reviewed.
194	Rep. Winters	Was the \$700 that the escapee possessed, in the trust account within the Hospital

		or in an outside account?
196	Mazur-Hart	That money was in the patient's trust account.
198	Rep. Winters	Are there any standards for how much money a patient can withdraw?
200	Mazur-Hart	The standard for withdrawal is the purpose to which the money is used. If someone withdraws a large amount of money, there should be a stated purpose for the money being withdrawn and the money used only for that purpose.
215	Rep. Prozanski	Do patients have the right to maintain their account or is there a guardianship to help with their business affairs?
225	Mazur-Hart	Guardianship isn't required because a court or civil commitment does not eliminate the patient's competency. Discusses how hospital staff helps patients maintain their individual accounts and personal items.
240	Rep. Prozanski	Did this individual who recently escaped have a \$700 check on him?
242	Mazur-Hart	Yes.
242	Rep. Prozanski	I know you are investigating why this individual had this much money. Can you give us an overview of how the patient gets the money and the process the staff uses for determining how it should have been used?
252	Mazur-Hart	Discusses the typical procedure for staff to okay the amount of the check and that the patient needed to be supervised until the money went for the intended purpose.
264	Rep. Prozanski	Since the check is issued into the patient's name, he/she would have to endorse that check. If the check is intended for a different payee, shouldn't the check have been made out to that party?
277	Mazur-Hart	Yes. In this case, the check was made out to the patient to be moved into his account outside the hospital.
284	Rep. Prozanski	Could the check be issued to the account instead of directly to the patient, especially if it is a substantial amount of money?
293	Mazur-Hart	Yes.
297	Rep. Bowman	What is the current process for granting the privilege of walking around outside

		the institution?
305	Mazur-Hart	Discusses the one-to-five privilege level that is determined by the Forensic Disposition Board. The threshold for privileges is the ability to work. Mr. Crawford had been supervised by staff while outside the hospital 70 times prior to this occurrence.
340	Rep. Bowman	Did he have the highest privilege level?
345	Mazur-Hart	Yes.
346	Rep. Bowman	How long was Mr. Crawford gone before staff noticed he was gone?
349	Mazur-Hart	When a staff member goes out on the property with a patient, they have to carry a two-way radio. At 6:12 p.m. the staff reported Mr. Crawford had run and additional staff were there within 30 seconds. The State Police were notified at 6:22 p.m. of the incident.
377	Kast	Discusses that the hospital was built in the 1800s and the newest building is 1954. Discusses that limitations within the physical plant and security issues need to be studied further.
403	<b>Rep. Jeff Kropf</b>	<b>State Representative, House District 37</b>  We need to find some way to prevent an escape from happening again. Discusses the feasibility of electronic monitoring and the possible cost.
420	Mazur-Hart	Discusses the estimates the hospital has gotten on electronically monitoring 90 people a year. The bracelets could be used and re-used so not everyone granted outside privileges would need to be outfitted with the bracelets. The most expensive part of maintaining adequate outside supervision is paying for the staff.
<b>TAPE 111, A</b>		
015	Rep. Kropf	What would be the minimum you would need to get started on a pilot program of electronic monitoring? How many patients have the same privilege level as Mr. Crawford?
020	Mazur-Hart	Discusses the work on securing the tunnel system for transferring patients from one side of the grounds to the other so they are not walking on the streets. I would like to see 20-25 patients started in a pilot program of electronic monitoring.
037	Chair Mannix	Do you have the same security system in place for the civil commitment patients that you do for the forensic unit patients in regards to their checking accounts?

040	Mazur-Hart	Yes, the Patient Bill of Rights mandates that the trust accounts work the same for both.
042	Chair Mannix	Is this mandate an Oregon statute or a federal requirement?
043	Mazur-Hart	It is an Oregon statute.
054	Chair Mannix	Is the forensic unit physically separate from the rest of the hospital?
055	Mazur-Hart	Yes, but we have 15-20 patients who are civilly committed but assigned in the forensic program for treatment purposes because of the difficulty in managing their behavior.
061	Chair Mannix	Could you make a distinction between those patients who have been civilly committed and those who have been found guilty, but insane?
064	Mazur-Hart	Yes.
065	Chair Mannix	Is it appropriate to make the same distinction between civil commitment patients and forensic patients with regards to access to trust accounts?
068	Mazur-Hart	Yes.
075	Chair Mannix	Should we make a distinction in the Patient's Bill of Rights based on the level of security needed for each patient?
082	Mazur-Hart	Yes.
084	Chair Mannix	Are there other areas where the Patient's Bill of Rights would be a problem for you when dealing with patients who pose a significant security risk?
090	Mazur-Hart	A constant concern is what can come and go through the mail.
096	Chair Mannix	Is there a qualifier to the Patient's Bill of Rights saying that security concerns override the Patient's Bill of Rights?
108	Mazur-Hart	Yes. Discusses obnoxious mailings that have occurred from a person at the Hospital and subsequent court cases that have ensued.
136	Chair Mannix	Wonders if the forensics unit may have patients that are more dangerous than some of the worst offenders in the state prison. Those people who are guilty, but insane shouldn't have more privileges than someone who is sane, but guilty of a crime.

147	Kast	Discusses two wards at the Oregon State Hospital that contain maximum-security patients who are subject to extraordinary security measures.
154	Chair Mannix	Let us know if there are any qualifiers to the Patient's Bill of Rights that are in need of help with the statutes to make any exceptions for forensic patients.
169	Rep. Winters	Discusses the finances relating to security. Do the patients have credit cards?
173	Mazur-Hart	They have phone cards, but not credit cards.
177	Rep. Winters	To your knowledge, does anyone have credit cards?
178	Mazur-Hart	Mr. Crawford had one that was probably sent to him in the mail.
185	Rep. Winters	Do you have any process for monitoring these cards coming through the mail?
189	Mazur-Hart	The patients open their mail in the presence of staff.
192	Rep. Winters	What about sending mail out?
193	Mazur-Hart	They are allowed to send mail out and it is not censored except for any mailings prohibited by statute.
197	Rep. Winters	Does the Psychiatric Review Board (PSRB) determine if a patient is ready to be released?
201	Mazur-Hart	Yes.
202	Rep. Winters	Do you make a recommendation to the PSRB on a person's release?
203	Mazur-Hart	Yes. The hospital recommends to the board when the release process can begin, but the board can make that determination on their own to begin the release process based on hearings and information they have.
210	Rep. Winters	Are we currently being sued for an individual being released and raping an individual in Clark County?
214	Mazur-Hart	We've been given notice of a tort claim.
216	Rep. Winters	Is it correct that the individual was only hospitalized for 8 months?

218	Mazur-Hart	I don't know.
219	Rep. Winters	Could you find out that information for us?
219	Mazur-Hart	Yes.
220	Chair Mannix	Would it be useful to ask the Department of Corrections (DOC) to review the forensics unit's standards and procedures from the security perspective and make recommendations that you can then respond to from the patient-care perspective?
235	Mazur-Hart	Yes.
238	Chair Mannix	This review by the DOC could be on mail, electronic communication, financial aspects and the security of the premises. As a follow-up, we need to look at Ways & Means to provide more physical security changes at the hospital, like the tunnel access.
257	Rep. Prozanski	Discusses electronic monitoring that Lane County is looking into.
268	Chair Mannix	Are the patients from the forensics unit allowed to walk around outside the fenced area, unsupervised, at anytime?
271	Mazur-Hart	Patients in minimum-security-risk jobs, in the transition living cottage, are able to walk on the property for the purpose of doing their jobs.
274	Chair Mannix	Have any of these patients walked away in the last few years?
276	Mazur-Hart	Discusses one patient who was working in an unfenced area who walked away. Since then, that work site has been secured.
284	Chair Mannix	Any other facilities off the Oregon State Hospital campus that are used to house forensic unit patients?
288	Mazur-Hart	Not under our jurisdiction. There are patients who live in the community, but they are under the jurisdiction of the Psychiatric Review Board (PSRB).
293	Chair Mannix	Have any of those individuals left from those residences?
295	Mazur-Hart	The PSRB would be better to answer that, but there have been individuals who have returned to us as a revocation of their conditional release.
312	Rep. Simmons	Do you have group homes that house people who have committed murder, arson and rape?

318	Kast	Yes.
323	Rep. Simmons	Do they walk around unsupervised?
325	Kast	Yes.
329	Rep. Simmons	Where are these group homes?
331	Kast	We can provide that information to the committee.
337	Rep. Simmons	So it might be in your typical neighborhood?
338	Kast	Yes.
341	Rep. Simmons	Who supervises these individuals?
345	Kast	We fund a case management program for each forensic patient still under the PSRB's jurisdiction in the community. County mental health programs or their contractors are responsible for supervising the conduct of the individual. It is not easy to get a conditional release plan approved, but once they are approved, the monitoring is rigorous.
386	Rep. Simmons	But they can walk away if they choose to do so?
389	Kast	When a patient makes a decision to walk away, they can be taken back into custody. It is always disturbing when something like this happens. The Oregon State Hospital takes very seriously the issue of public safety as well as the safety and rehabilitation of all patients.
428	Chair Mannix	Closes informational hearing at 9:00 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**



**A ñ Informational Hearing Only, Oregon State Hospital Policies and Procedures submitted by Stan Mazur-Hart, dated 3/22/97, 14 pgs.**

**B ñ Informational Hearing Only, Forensic Hospital Treatment Services submitted by Stan Mazur-Hart, 43 pgs.**

## HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

March 30, 1999 Hearing Room 357

8:30 a.m. Tape 112

**MEMBERS PRESENT:** Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Hansen

Rep. Simmons

**MEMBER EXCUSED:** Rep. Sunseri

**STAFF PRESENT:** John Horton, Counsel

Patsy Wood, Administrative Support

**MEASURE/ISSUES HEARD:**

HJR 7 Work Session

HB 2352 Work Session

HB 2353 Work Session

HB 2354 Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments

**TAPE 112, A**

001	Chair Mannix	Calls meeting to order at 9:02 a.m.
<b><u>HB 2354 PUBLIC HEARING</u></b>		
006	Counsel Horton	All four bills that are scheduled today have to do with HJR 7 that was former Ballot Measure 40. HB 2354 sets the procedure for a statewide special election in November 1999 and appropriates funds for that special election.
022	Chair Mannix	Because this is an election-setting bill, we would need to refer this to Ways & Means. Ways & Means would then include any other measures that have been approved by the House and Senate to go to the voters.
040	Counsel Horton	The ñ3 amendments to HB 2354 ( <b>EXHIBIT A</b> ) change the election date from May 18 to November 2, 1999, and Section 10 appropriates monies for the election.
044	Chair Mannix	HB 2354 allows an election to be held in November 1999, but does not stipulate all measures that may be on that ballot.
056	Rep. Prozanski	Would this bill be a vehicle used for any and all measures besides the bills coming out of our committee relating to special elections?
058	Chair Mannix	There would be a single bill to establish the special election and then any measures to be presented to the voters at that time would refer to that bill.
067	Rep. Prozanski	Is it your intent to go into work session to move HB 2354 out today?
068	Chair Mannix	I would prefer to send it to Ways & Means.
070	Rep. Prozanski	I would like to know what the final version would be before we send it to Ways & means.
072	Chair Mannix	Discusses the concept between a May election and a November 1999 election. Closes public hearing on HB 2354.
<b><u>HB 2352, HB 2353 &amp; HJR 7 COMBINED WORK SESSION</u></b>		
079	Chair Mannix	Discusses that a work group has been meeting with Mark Gardiner and Tim Sylvester from the Department of Justice to draft suggested changes.
097	Counsel Horton	The word document labeled HB 2353 can be discarded because the ñ4

		amendments ( <b>EXHIBIT B</b> ) say the same thing.
109	<b>James Rice</b>	<b>Oregon Criminal Defense Lawyers Association</b>  I would like to testify tomorrow after a chance to see the amendments that have been presented today.
120	<b>Kathie Osborn</b>	<b>Juvenile Rights Project</b>  Testifies in opposition to HJR 7, and discusses a problem with the ñ6 amendments ( <b>EXHIBIT C</b> ). Discusses that juvenile delinquency proceedings have been included under the definition of criminal defendant and convicted criminal. Juveniles are not criminals. Discusses the differences between juvenile court and adult court. The use of criminal language when referring to juveniles might give courts the ability to abolish juvenile courts. You need to pull out the juvenile delinquency language and put that similar language into the different sections of HJR 7. Discusses another problem with the release of individuals because juveniles are not allowed bail for anything except Measure 11 crimes. If juveniles were not released it could be a burden on these counties that lease juvenile detention beds to other counties.
181	Chair Mannix	Ms. Osborn, would you take the ñ6 amendments to HJR 7 and write up appropriate revisions to address your concerns?
184	Osborn	The Juvenile Rights Project is opposed philosophically to HJR 7 and has directed me not to write any language changes, but I can ask them if I can do so at the request of Chair Mannix.
192	Chair Mannix	Your concerns are legitimate and I want to make sure they are adequately addressed.
196	Osborn	I will let Counsel Horton know if I have been given permission to draft those changes and, if so, get those to you tomorrow.
200	Chair Mannix	We will not treat your cooperation as an endorsement of HJR 7.
213	<b>David Fidanque</b>	<b>Executive Director, American Civil Liberties Union (ACLU) of Oregon</b>  If HJR 7 continues to include multiple amendments to the Constitution, we believe HJR 7 will be procedurally defective. The ACLU believes that HJR 7, if approved in its current form by the Legislature, would constitute a revision of the Constitution. Discusses that HJR 7 could be subject to a procedural challenge in the appellate courts.
249	Chair Mannix	The Legislature can, by a single resolution, refer several amendments. However, I understand your view that if by a single resolution several amendments are

		being referred and they include amendments which affect existing language in the Constitution, that that itself constitutes a revision in the Constitution.
256	Fidanque	Discusses additional procedural arguments, as HJR 7 may constitute more than one subject. We urge making separate bills out of HJR 7.
270	Chair Mannix	Closes work session on HB 2352, HB 2353 and HJR 7. Adjourns meeting at 9:20 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A - HB 2354, -3 amendments (LC 1846), dated 3/17/99, staff, 1 pg.**

**B - HB 2353, -4 amendments (LC 1830), dated 3/29/99, staff, 6 pgs.**

**C - HJR 7, -6 amendments (LC 1511, dated 3/5/99, staff, 8 pgs.**

**D - HB 2352, -2 amendments (LC 1829), dated 3/29/99, staff, 1 pg.**