



Will concerns about public safety win the day when it comes to reforming the Psychiatric Security Review Board?

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As minimum security patients at the Oregon State Hospital, Matthew Kirby, 22, and a 40-year old man identified as "Emmanuel Goldstein" for this article are allowed to do quite a bit.

They can leave the hospital's grounds under the supervision of one hospital staff person, and could, for instance, eat at any of Salem's restaurants. Other higher security patients leave their wards in shackles, if they leave at all.

Kirby and Goldstein can wear their own clothes, have their own cell phone, laptop, and other possessions with them. They can access the kitchen in the middle of a night for a snack.

One might say their lives are bearable. But Kirby and Goldstein say they are still institutionalized.

"There is only so much Jello you can eat," Goldstein says. "There is only so much Uno you can play."

Only so much before they are reminded that they are not free to go wherever they want, whenever they want, spontaneously join a group of friends at the local bar; that the Oregon State Hospital's guards will shine a flashlight in their eyes every hour at night; that they are still under 24-hour, seven days a week supervision; that they may have to remain at the hospital, under the jurisdiction of the Psychiatric Security Review Board, for years to come.

The Psychiatric Security Review Board, also known as the "PSRB," is the state agency with jurisdiction over mentally ill persons who commit a crime and are found by a court to be "guilty except for insanity," meaning that the crime would not have occurred if the person wasn't mentally ill.

With the mission to protect public safety, the PSRB has the power to decide when a patient is ready to be released from the Hospital, either to live independently or in a treatment program at the community level.

As of May 1, 736 individuals are under the PSRB's jurisdiction. Of those, 324 of those reside in the Oregon State Hospital. The rest have been "conditionally released" back to the community in various residential settings – supported housing, intensive case management settings, etc.

Once conditionally released, patients are still under the board's jurisdiction, and the board can send them back to the hospital if necessary.

"They are the gate keepers," says Harris Matarazzo, who has defended patients in PSRB hearings for 25 years.

By all accounts, the PSRB is successful at its mission. The board's recidivism rate – or

the rate of people who reoffend once back in the community – is extremely low, at 2.3 percent.

Mental health advocates and patients like Kirby and Goldstein say the recidivism rate is more indicative of a conservative board that achieves its mission at a steep human cost: rarely choosing to release a patient, the board keeps patients at the Oregon State Hospital far past the point that they've received the necessary treatment to live independently.

"There are patients who are considered to be clinically ready for discharge...but they're unable to leave," says Bob Joondeph, the executive director of Disability Rights Oregon. "They can spend months and years in there, frankly."

"They often don't let someone out," says Chris Bouneff, the executive director of Oregon's chapter of the National Alliance of Mental Illness.

Bouneff says the reason is simple: fear. "They are afraid of what happens if someone commits another offense," he says. "Unless the risk is zero, they hesitate to release someone."

"The way we have things structured right now is heavily weighted in terms of public safety," Joondeph says.

The Oregon State Hospital has, in the last five years, been under the critical and scrutinizing eye of the United States Department of Justice and Oregon's legislature. There have been changes. The hospital's new superintendent is actively working to create treatment programs that are evidence-based and patient-centered.

The mindset of reform has trickled down to the PSRB. Three bills are working their way through the Legislature, set to adjourn in three weeks.

Two bills – Senate Bill 420 and House Bill 2701 – would substantively change the PSRB and how the Hospital's forensic patients are treated, by taking jurisdiction away from the PSRB, creating assessment and treatment deadlines, and mandate that a patient, once deemed ready for release, be released within 60 days.

With the clock ticking, none of the bills are scheduled for votes on the House or Senate floors. Two have been referred to the Joint Ways and Means' Subcommittee on Capital Construction, a seemingly innocuous budget subcommittee made up of legislative leadership. But the odd referral indicates to lobbyists and insiders that negotiations will continue behind the scenes, and the bills may appear for floor votes during the final days of the session.

They have come under the criticism of

Safe – or unsound?



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Above right: Matthew Kirby is one of a small group of Oregon State Hospital patients who has been heavily involved in advocating for changes and reforms to the PSRB.

district attorneys, proponents of public safety, and the PSRB itself. All argue that public safety would be jeopardized by the bills because a dangerous class of criminals could be more easily released into the public.

But Bouneff, Joondeph and others argue that public safety is not at question. Rather, the question becomes whether there are lucid people with treated mental illnesses at the Oregon State Hospital, waiting for release and costing taxpayers \$200,000 a year, who are ready to restart their lives.

"The idea behind both of these pieces of legislation is to create more movement where appropriate, so people don't languish," Bouneff says.

Beginning one year ago, a range of stakeholders including legislators, advocates, community mental health workers, and the PSRB, began meeting to discuss changing the PSRB.

Out of those meetings came House Bill 3100. It would require that a state-certified psychologist or psychiatrist evaluate someone before they make a "guilty except for insanity" plea.

"Currently," Matarazzo says, "the PSRB decides the evaluator. That is a real flaw."

The idea is that the evaluator could potentially prevent some people from making the plea, which is already challenging to do—a person must prove that they are mentally ill, and committed the crime under the influence of that mental illness.

Those people would then likely be referred to community treatment programs, rather than the hospital.

House Bill 3100 also includes a provision that people committing misdemeanor-level crimes and Class C felonies be sent to the hospital only if they need the hospital's high level of care.

"This bill would advance the efforts to place individuals with criminal issues and mental health issues in the most appropriate place for treatment," says Richard Harris, director of the state's Addictions and Mental Health Division.

But Matarazzo doubts the bill is necessary. "Judges need to challenge and make sure the evaluations are good ones," he says, adding that the evaluators, who would be hired by the court, would always be "hired guns."

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