

**COMMITTED, from page 4**

behind.

Once at the top of her class, Cathy was a graduate of Southern Oregon University School of Education and a talented pianist, singer and guitar player. She wanted to work as an elementary school teacher, but her life changed when she began to show signs of schizophrenia in her mid-20s. There were ups and downs, but since the mid-1990s she had remained relatively stable and on her medication. She married and moved to Arizona in 2004. About 10 years later, she moved back to Oregon, but her medical care didn't transition well.

"She fell through the cracks," said DelaCruz. For the next few years she watched her sister cycle in and out of hospitals, never getting back to a point of stability and eventually becoming homeless.

Twice, said DelaCruz, a cab dropped Cathy off in Old Town after she was discharged from Cedar Hills Hospital without any medication or coat and nowhere to go. Her family would get her checked into motels and shelters, but inevitably, she would become aggressive or destructive and get kicked out.

She had a religious fixation, and was often lost in incoherent conversations with spirits that she said were bringing her messages. She would urinate on the floor and verbally attack just about anyone. She became paranoid that her family was trying to send her back to a psychiatric hospital, and she refused to get treatment.

During her last downward spiral, she was in her 60s and sleeping outdoors. She had lost all her teeth and contacted family only when she needed money. As temperatures dropped in September 2017, DelaCruz began to call the Multnomah County Crisis Line about twice a week with her sister's location, telling operators Cathy needed help and couldn't survive on the streets much longer.

Each time, DelaCruz would receive a follow-up call, often from a police officer, telling her that while they agreed it's obvious that her sister needs help, they had no legal grounds to intervene.

**"If** you look at the statute that we work under, it seems fairly vague," said Osborne. In his work with Multnomah County courts, he oversees investigations for civil commitments.

State statute allows the psychiatric commitment of a person who is a danger to themselves or others, or who is not able to meet their basic needs. It would seem that someone like Cathy would meet this definition, but Osborne said over the years, appellate courts have significantly narrowed the criteria.

A person has to be in the observable process of gravely harming themselves or others to be considered - many behaviors that demonstrate a person is extremely sick, while concerning, do not qualify them for commitment.

"That burden becomes higher and harder to prove when it's nice weather out," said Osborne.

"Because people can live outside, and you

don't have to worry about freezing to death. We can't say, 'This person is scrounging for food in the garbage can, and that's bad,'" he said. "As terrible as that is, the courts really look at that and say, 'Are they ill from that? Can you prove that's endangering their well-being?' You would have to then prove someone is getting sick on a regular basis from eating bad food. It is that high level that we have to go for when we're talking about basic needs."

Local efforts to amend civil commitment and mandated treatment statutes will likely converge with similar efforts taking place in Salem as Oregon heads into the upcoming legislative session.

A Senate Judiciary workgroup has drafted legislation that would lower the threshold for civil commitment, allowing a judge to take a person's past behavior into account and extend the potential for danger to themselves or others to the next 30 or 90 days rather than requiring that the danger be imminent. If a person's deteriorating condition will likely be a graver danger if they continue without help, and if that person has caused themselves harm in the past, the judge could take that information into consideration when deciding whether or not to commit them or mandate that they accept mental health treatment.

Another bill the workgroup drafted increases the number of days a person can be detained while waiting for a civil commitment hearing from five to 15. This would give investigators such as Osborne more time to put together a case. He currently has about three days to get witnesses and evidence lined up in order to get the hearing scheduled by the fifth judicial day, he said.

In 2017, Osborne's team of 13 investigators conducted 3,200 investigations.

"Out of those investigations," he said, "we typically will take on average 8 to 10 percent of those folks to civil commitment hearing. Out of them, we get about 90 percent civilly committed."

Extending the hold period from five to 15 days may also lead to fewer commitments because it gives the patient more time to become stabilized.

**F**or DelaCruz, calling the authorities twice a week in a futile attempt to get her sister help continued for four months and well into the winter. Then one night in late December, DelaCruz's nephew found her sister sleeping on a wet sidewalk in Hillsboro. This time when they called the crisis line, Cathy fled wearing no shoes. It was this small detail that showed she was posing an immediate danger to herself - it was the middle of winter and she could get

frostbite. This time, she was taken to St. Vincent Hospital and finally stabilized.

"It was a great Christmas present," said DelaCruz. Her sister now lives in a residential facility in southern Oregon and hasn't returned to the streets since.

But not everyone gets the help they need. Some have no family looking out for them, and others have died despite their family's best efforts to save them.

Josephine County judge Pat Wolke points to Karen Batts, a 52-year-old woman suffering from schizophrenia who died of hypothermia in a downtown Portland parking garage last year despite her family's ongoing attempts to get her into a hospital.

Wolke's jurisdiction is one of two in the state to implement assisted outpatient treatment programming, which allows the court to order someone into outpatient mental health treatment.

"Assisted outpatient treatment is sort of like mental health court for people who don't commit crimes," he said.

But Wolke said the statute governing the program is flawed. There are no consequences for not complying and the court cannot order that a person take their medication. Additionally, when the legislation was passed, it didn't come with any funding to support it.

Wolke's been heading up the legislative workgroup in Salem. Before the group decided to focus on lowering the bar for civil commitment, it discussed making some changes to Oregon's assisted outpatient treatment statute so that it could be more effective and wider in use.

The workgroup, overseen by Senate Judiciary Committee Chair Sen. Floyd Prozanski (D-Eugene), comprises stakeholders including mental health advocates, attorneys, ACLU of Oregon and Oregon Health Authority.

"We've resisted doing anything related to AOT (assisted outpatient treatment) in that workgroup because of really significant opposition, by ourselves and others," said Kimberly McCullough, policy director at ACLU of Oregon.

She said mental health resources aren't available in a timely matter - or at all - for Oregonians who seek treatment voluntarily. And, she said she thinks providers could try more creative ways of reaching people who need help before taking away a person's civil liberties and mandating that they take medication.

"Assisted outpatient treatment is only as good as the resources that are available," said Lane County public defender Allison Knight, who has also been involved with the workgroup. And outside of Multnomah County, she said, the resources just aren't there.

"Our general position is that community mental health services have been chronically underfunded," said Bob

Joondeph, director at Disability Rights Oregon. He's also opposed changes proposed in the workgroup.

Joondeph said while he wants to see people get the services they need, he has concerns about going back to the days of warehousing people.

"Treatment should be determined between a patient and a physician," he said, "and the courts are not well-suited to make medical decisions for anybody."

**J**udge Waller and several workgroup members are traveling to Ohio next week to learn more about the mandated outpatient treatment programs that have been operating in that state for a decade.

One program they'll visit is run by Judge Elinore Stormer in Akron's Summit County.

Stormer said in Ohio, if a person is pretty sick, they will meet Ohio's criteria for mandated treatment.

That state's mandated treatment programs also come with consequences. She said she tells participants that if they take their medication, then they won't have to go to the hospital - an incentive that she said works.

She also has other means of helping patients comply.

"I have a guy who is a bipolar meth user, and I have a crisis officer who takes him to go get his shot," she said. "I can also take you from my courtroom to hospital."

As of late September, 217 people in her courtroom had been mandated into outpatient treatment. Of those, just 12 have been referred back, and 99 are still participating in their treatment programs.

She said most people come before her bench after they're released from the state hospital. While family members could refer a loved one to mandated outpatient treatment, it hasn't happened. She said families typically wait until the person is so sick they need hospitalization because they don't want to upset them.

"Our model is one that's easily replicable, but tailored to fit your community," she said. "It relies on already existing programs and procedures, but links them in a different way." She said that makes it relatively inexpensive to operate - especially when the alternative is a costly stay in the state hospital.

Waller said she's interested to see how Ohio courts are balancing the need for treatment with a person's civil liberties and whether it seems like a program that could work locally.

While it's unknown how any of these bills will fare during this upcoming legislative session, it would seem that unless the bar for civil commitment is lowered and more resources are dedicated to getting people with mental illness into housing and healthcare, little is likely to change on the streets of downtown Portland.

Street Roots will continue to follow the progress of these efforts as Oregon heads into the 2019 session.

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**"If you are going to try to compel people into treatment on an outpatient basis, you also need to offer housing with those services. I think someone would need at least three months in a place that was stable to get their feet under them."**

**- BILL OSBORNE**  
 MENTAL HEALTH COURT AND CIVIL COMMITMENTS FOR MULTNOMAH COUNTY