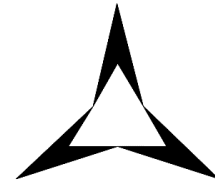




Disability
Rights
Oregon



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Pausing Oregon State Hospital admissions would violate Constitutional rights of people with mental illness

Disability advocates warn stopping admissions would lead to rise in number of
people with serious mental illness waiting in jail for mental healthcare

Portland, Oregon—Yesterday, Disability Rights Oregon and Metropolitan Public Defenders (MPD) filed a motion in court to stop Oregon State Hospital (OSH) from pausing admissions until April 26, 2021. The advocates warned that a pause would result in a rise in the number of people with mental illness in Oregon who wait in jail indefinitely for treatment in violation of their constitutional rights. OSH claimed a pause in admissions was necessary to stem a surge in patients found to not have the mental capacity to stand trial—what is called “aid and assist.”

Nearly 20 years ago, DRO and MPD won a landmark civil rights case, *Oregon Advocacy Center v. Mink*, that sought to end the practice of people who were found unable to assist in their defense waiting months in jail to receive court-ordered mental health treatment. The Ninth Circuit [ruled](#) the state hospital must accept defendants within seven days after an individual has been ordered for treatment to be able to face the charges against them.

“The cause of this problem and the solution are one in the same: the urgent need to build a community mental health system,” said Jake Cornett, Executive Director of Disability Rights Oregon. “Too many people with mental illness are being ensnared in the criminal justice system for low level offenses because of a lack of supports and resources for people with mental illness in the community. The state hospital is not

discharging those individuals back into their communities fast enough because of a scarcity of community mental health resources. The failure of the state to build community-based treatment for individuals with mental illness is not a justification for denying people their constitutional rights.”

For people with mental illness, time spent in jail can substantially worsen mental health conditions. Jails are not equipped with adequate healthcare staffing or treatment. Solitary is the default placement in jail for people with mental health issues.

Carl Macpherson, Executive Director of MPD, also explained what this means for each individual in jail: “Every day, public defenders see the suffering of our clients who struggle with mental illness. The pain and effect of serious mental illness is exacerbated for people who are incarcerated without services. Extending the suffering and incarceration without help is not acceptable.”

In 2002, the federal district court found that Oregon individuals whose mental capacity made them unable to aid and assist their counsel waited in jail an average of roughly 32 days for transport to the state hospital. More than a decade and a half later, sixteen individuals are waiting longer than seven days with an additional fourteen people and counting who will wait in jail for court-ordered mental health services.

DRO has [long advocated](#) for expanded local mental health treatment for Oregonians found unable to aid and assist. Helping people with mental illness meet their most basic needs—like health care, housing, food and transportation—creates a foundation from which they can stay healthy over the long run. Treatment to help defendants with mental illness become healthy enough to stand trial is available in only a handful of communities in Oregon.

Oregon Advocacy Center v. Mink

The [Oregon Advocacy Center v. Mink](#) decision requires the state hospital to accept people found unable to aid and assist in their criminal defense within seven days of that determination. The decision ended the practice of keeping defendants in jail for months awaiting mental health care.

Resources

- [Response to State’s Motion to Pause Admissions](#)
- [Report: 9 of the 10 people who died in jail had a disability](#) (February 2021)

About Disability Rights Oregon

Disability Rights Oregon upholds the civil rights of people with disabilities to live, work, and engage in the community. The nonprofit works to transform systems, policies, and practices to give more people the opportunity to reach their full potential. For more than 40 years, the organization has served as Oregon's Protection & Advocacy system.

About Metropolitan Public Defenders

MPD has been on the cutting edge of public defense since its inception in 1971, with the goal of providing quality legal representation for people living in poverty. Formed as a non-profit law firm, it contracts with the State of Oregon for indigent defense services. MPD was the first public defender organization under this system. In Multnomah County, it was formative in creating one of the first drug courts in the nation and had some of the first alternative sentencing advocates in the nation.

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