



Disability
Rights
Oregon

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Indefinite detention of defendants with disabilities due to COVID-19 is illegal, harmful & a threat to public health

Disability advocates call for the immediate creation of
community-based treatment options

Portland, Oregon—The state’s leading statewide disability rights organization warned that closing the doors of the Oregon State Hospital (OSH) to defendants found unable to aid and assist in their defense during the COVID-19 public health crisis means more people with mental illness will be stuck indefinitely in county jails. To address the needs of defendants with mental illness and protect public health, Disability Rights Oregon (DRO) called for the immediate creation of community-based treatment options.

DRO, in a letter sent to the counsel for the Oregon Health Authority (OHA), warned that shutting off OSH to defendants found unable to aid and assist would worsen the mental health of those individuals left waiting in jail, violates the constitutional rights individuals who are accused of a crime, and runs the risk of spreading COVID-19 within a different institution: county jails. In recent weeks, DRO, along with other advocates, has called for county jails to take steps, including reducing jail capacity, to protect jail inmates from COVID-19.

“The state hospital is leaving people in serious psychiatric crisis in jails indefinitely, leaving them vulnerable both to further mental deterioration and to COVID-19 infection. The public health crisis before us today compels the state to rapidly expand community-based treatment to both contain this disease and uphold the constitutional rights of these defendants. The time to act is now,” said Emily Cooper, Legal Director of Disability Rights Oregon. “Mentally ill defendants in need of treatment belong in neither

the state hospital nor jail. Their needs can best be met if they receive care in the community.”

In trying to stem the spread of COVID-19 inside its walls, OSH restricted admissions to defendants found unable to aid and assist in their own defense. Only those who qualify for a narrow category for emergency admission can receive mental health treatment. DRO asked OHA to designate community sites for housing people with serious mental illness including current state hospital patients who are ready for discharge. OHA has broad authority to create, purchase, lease, or designate any number of sites outside the state hospital grounds as places for housing people in need of restoration.

“In ordinary times, everyone who needs mental health care should be able to find it in their community,” said Jake Cornett, Executive Director of Disability Rights Oregon. “During this unparalleled public health crisis, local mental health treatment not only serves our communities’ over the long-term, but could help save lives today.”

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. Yet treatment to help defendants with mental illness become healthy enough to stand trial is available in only a handful of communities in Oregon.

Seventeen years ago, DRO won a landmark civil rights case that sought to end the practice of people who experience mental illness found unable to assist in their defense waiting months in jail to receive court-ordered mental health treatment. The Ninth Circuit [upheld](#) the court’s decision that 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.

Resources

- [Letter to Counsel for Oregon Health Authority](#) (March 19, 2020)
- [Joint Letter to the Oregon State Sheriffs Association](#) (March 17, 2020)

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.

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