

Four Years Later: Oregon Prison Overhauls Treatment of Inmates with Serious Mental Illness



DRO

Disability
Rights
Oregon

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Learn more about our work to reform the criminal justice system in Oregon at: droregon.org/mental-health-rights-project.

Executive Summary

In 2016, Disability Rights Oregon (DRO) and the Oregon Department of Corrections (ODOC) signed a Memorandum of Understanding (MOU) that was aimed at improving conditions in the Behavioral Health Unit (BHU) at Oregon's only maximum security prison, the Oregon State Penitentiary. By signing that agreement, DRO and ODOC began a four-year¹ collaborative effort to transform the BHU from a dark, dangerous, and hopeless place into a more humane environment where both inmates with serious mental illness and staff who work with them could feel safe, and where inmates could leave their cells to receive mental health treatment.

Between January 8, 2016 and January 15, 2020, DRO monitored ODOC's progress toward achieving agreed upon benchmarks and found ODOC achieved the major goals of the MOU. As of January 2020:

- For much of 2019, the final year of the MOU, BHU inmates spent an average of more than 20 hours per week out of their cells.
- Most BHU inmates no longer stayed in the BHU for years at time.
- Approximately five to eight inmates per quarter were transferred to less restrictive units.
- Of the “long-term” inmates (i.e., men who have been in BHU for more than 18 months) approximately one per quarter were transferred to a less restrictive housing unit.
- Incidents of extreme self-harm and traumatic cell extractions that were once common in the BHU were rare by January 2020.
- BHU inmates received more effective mental health treatment in a new building with a level of dignity and confidentiality that was impossible earlier.

¹ The MOU expired on January 15, 2020. While the publication of this report was delayed due to the COVID-19 public health threat, the report is based on information gathered prior to January 15, 2020.

Background

On May 1, 2015, Disability Rights Oregon (DRO) issued “Behind the Eleventh Door,” a report that documented a yearlong investigation of conditions in the Behavioral Health Unit (BHU) at the Oregon State Penitentiary (OSP). The report identified a culture at the OSP “that promotes unnecessary violence and retaliation by correctional staff” that resulted in Oregon inmates with severe mental illness being “routinely tasered, pepper-sprayed, isolated, and denied access to adequate mental health care.” DRO concluded that the BHU had devolved into a hopeless and dysfunctional program where roughly 40 of the most severely mentally ill individuals in Oregon prisons spent 23 hours or more a day in tiny, stifling cells.

The report identified causes and made several recommendations for changes that would be necessary to restore the unit to its intended purpose: to provide effective mental health treatment in a humane and safe environment.

DRO’s Investigation Led to a MOU to Improve the BHU

On January 8, 2016, DRO and the ODOC signed a Memorandum of Understanding (MOU) that was designed to resolve concerns collaboratively without litigation. The purpose of the MOU was to improve conditions within the four-year period of the agreement.

Specifically, DRO expected the agreement would deliver:

- more effective mental healthcare,
- a drop in the use of force against inmates, and
- a decrease in incidents of self-harm and attempted suicide.

The MOU’s concrete, measurable benchmarks were stand-ins for the broader goal of creating a safer and more hopeful environment for inmates and staff.

The MOU created a process where DRO engaged in regular data reviews with ODOC leadership and made evidence-based recommendations to ODOC decision makers. The process developed under the MOU proved critically important for improving conditions at the BHU.

Results: Improved Conditions for Inmates with Serious Mental Illness

Increased Time Out of the Cell

The most important of those achievements is that inmates housed in the BHU spent more time out of their cells in therapeutic programming and interaction with others. It is well established that prolonged isolation only exacerbates mental illness and can result in serious harm and unsafe conditions. As of January 2020, the unit's average amount of time that inmates spent out of their cell each week exceeded the crucially important 20-hour per week goal of the MOU. Moreover, this level of improvement was consistently true for three of the final four quarters the MOU was in effect.

Long-Term BHU Inmates Transferred to less Restrictive Housing

Changes in the unit culture have meant that most inmates no longer stayed in the BHU for years at a time while their mental health needs are ignored and allowed to worsen. Instead, men who had lived in the unit for years without leaving their cells gradually learned that it was safe and worthwhile to do so. It is perhaps for that reason that a steady stream of BHU inmates, typically five to eight per quarter, were able to transfer to other less restrictive housing even though the average length of stay in the unit was not substantially reduced. About one inmate per quarter of what ODOC calls “long-term” inmates (i.e., men who have been in the BHU for more than a year and a half) have also transferred to less restrictive housing units during the four-year term of the MOU.²

Decline in Use of Force

Prior to DRO's 2015 investigation, inmates regularly reported forced cell extractions conducted by heavily armored cell extraction teams and cleanup crews tasked with mopping up pools of blood. In short, cell extractions are highly traumatizing for both staff and inmates. This report finds the use of force by Corrections Officers (COs) in the form of cell extractions—a regular occurrence in 2015—was infrequent in the BHU as of January 2020.

Decline in Incidents of Serious Self-Harm Behavior and Suicide

In 2015, incidents of serious self-harm occurred frequently, traumatizing both staff and inmates. By the end 2019, incidents of serious self-harm were less frequent in the BHU. If

² In 2016, ODOC issued its first quarterly report on its progress toward the goals of the MOU. The report indicated that the average length of stay for the nine inmates who were moved to less restrictive units during the quarter was 343 days. The average length of stay for all BHU residents was 250 days during that same quarter. ODOC's final quarterly report was issued in January of 2020. The report indicated that the average length of stay for long-term residents was 384 days and that the average length of stay for all residents was 307 days.

the MOU accomplished nothing else, these changes would be significant and worth the effort expended to achieve them.

Better Trained Staff and Increased Clinical Capability

In 2016, the shortage of Qualified Mental Health Practitioners (QMHPs) was so dire that a staff vacation or resignation would result in prolonged delays for inmates attempting to access behavioral health services. Since 2015, the number of QMHPs assigned to the BHU has increased significantly. As of January 2020, there was more redundancy in the clinical staffing of the unit so that a QMHP could take a vacation or resign without significantly delaying the provision of behavioral health services. Another critical improvement was the Department's hiring of a long-needed skilled psychiatrist to oversee the work of the QMHPs.³

DRO's 2015 investigation identified a destructive imbalance of power between security and clinical staff that allowed for security staff to inappropriately influence clinical treatment on the unit. DRO finds that over the four years of the MOU, ODOC was thoughtful in selecting COs who work in the BHU, which largely repaired the imbalance that DRO found. This meant better treatment plans and more effective collaboration between the COs and QMHPs who worked together rather than in opposition to one another.

ODOC credibly reports that turnover and resistance to BHU assignments have both decreased between 2015 and 2020. ODOC has reported to DRO that many COs and clinicians view working in the BHU as a desirable assignment where COs have the opportunity to work with better trained and supportive colleagues who share a goal of creating and maintaining a healthy environment for inmates and staff alike.

Built-to-Suit Space for Behavior Health Treatment

In 2016, inmates did not have access to a clinically appropriate space for behavioral health treatment. Further, what treatment spaces existed were not confidential, which exacerbated the challenges faced by QMHPs and inmates. At the conclusion of the MOU, inmates in the BHU were able to access more effective and confidential behavioral health treatment in a new treatment building. The new building is a great improvement that partially mitigates the problems caused by a living environment that was originally designed and built as a place of punishment.

Conclusions on the MOU's Success

This report marks the formal endpoint of the MOU.⁴ In conclusion, ODOC has reached

³ ODOC has contracted with this psychiatrist, but fully expects that the position will become a permanent one.

⁴ The end of the MOU does not mark the end of a largely collaborative process that the MOU brought into being. In December 2019, ODOC agreed to continue providing DRO with data after the expiration of the MOU

or exceeded most of the target goals. More importantly, it has improved conditions for more than one hundred people who live and work in the BHU, and achieved these results in a manner that appears to be sustainable. It is hard to quantify what it means for BHU inmates to be able to live in a place where forced cell extractions, self-injurious behavior, and attempted suicide are no longer a common sight. The importance of these indicators of improvement at the BHU cannot be overstated, particularly having reached or exceeded the 20 hours per week of out of cell time during most of 2019.

Despite these improvements, unit inmates still spend a substantial number of hours in their cells with little to do and no social interaction, which is counter-therapeutic for people with serious mental illness.⁵

The COVID pandemic has made regular on-site visits to the BHU impossible, but DRO will continue to monitor progress within the BHU by other means. DRO maintains an active monitoring process for conditions within correctional facilities, with special focus on the ongoing isolation of prisoners with mental illness.

that will allow us to monitor its progress toward increased time out of cells and other important measures of conditions in the BHU.

⁵ There are now TV's in most or all BHU cells although too many of them may not be functional at any given time. TVs are no substitute for out-of-cell social interaction and treatment, but they are an improvement over endless hours of nothing but three walls and a Lexan-covered doorway to the hellish environment that was the BHU in 2015.

Recommendations for Ongoing Improvement

The BHU is a small unit within the ODOC medical system, which is one of many components within Oregon’s corrections system. DRO’s federal mandates stretch beyond the agreement with ODOC. Under DRO’s federal mandates, we recommend the following.

Continue Improvements in the Larger Healthcare System of ODOC

DRO recommends the Department view the improvements in the BHU as a foundation upon which additional improvements should be built throughout the healthcare system of ODOC.

This recommendation is acutely relevant to a Mental Health Unit (MHU) that houses nearly 100 individuals with serious mental illness at Two Rivers Correctional Institution (TRCI) in Umatilla. Within the ODOC system, MHUs house people with mental illness, but provide a lower level of treatment than the BHU.

TRCI is responsible for the welfare of roughly 1,700 to 1,800 incarcerated Oregonians, including many who deserve, and urgently require, effective mental health treatment. Following the 2015 publication of “Behind the Eleventh Door,” DRO received a fairly sustained series of letters and calls about the MHU at TRCI. As was the case for the BHU, those letters and calls come from both inmates and staff members. They consistently describe recurring problems that suggest a poor match between the staff who work within the MHU and the clinical needs of inmates. In addition, DRO continues to receive complaints about an imbalance of power between clinical and security staff—a problem similar to the one found by DRO in the BHU in 2015. Those concerns have been confirmed by multiple visits by DRO to monitor the conditions and treatment of people with mental illness at TRCI.

Because of DRO’s advocacy, ODOC has taken some action to reduce some of the most serious concerns at TRCI. However, it is clear that much needs to change if TRCI’s MHU is going to meet the needs of people with mental illness housed in that unit.

Stop the Solitary Confinement of People with Disabilities

In 2016, the Vera Institute of Justice⁶ made a series of recommendations to ODOC.⁷ One of those recommendations that is still neither adopted nor implemented is especially relevant to incarcerated individuals with serious mental illness and other disabilities:

“Prohibiting placing adults in custody with serious mental illness, severe developmental disability, or neurodegenerative diseases in any form of extremely isolating segregation.”

While ODOC has shifted away from using the term “solitary confinement,” isolation includes any setting, by any name, where a detainee rarely has meaningful contact with others. DRO finds the practice has continued under other names.⁸ The use of solitary confinement throughout ODOC is especially problematic for individuals whose behaviors are the result of inadequate behavioral health treatment or poorly understood developmental disabilities.

DRO urges ODOC to systematically track solitary confinement—regardless of what it is called or the reason that it was imposed—and take immediate actions to end its use for people with mental illness and people with disabilities.

Continue ODOC’s Current Efforts to Improve the Culture and Recognize the Humanity of Incarcerated People

ODOC has aggressively investigated the operation of other penal systems to consider how it might create what it now refers to as a more “humanized and normalized” system

⁶ The Vera Institute of Justice (Vera) is an organization whose overall mission is “To drive change. To urgently build and improve justice systems that ensure fairness, promote safety, and strengthen communities.” Under that broad umbrella, it has conducted a number of initiatives devoted to its area of work called “Bringing Dignity to Life Behind Bars,” by, among other things, reducing the use of solitary confinement. It was in this context that Vera, with funding from the U.S. Department of Justice Bureau of Justice Assistance, launched the Safe Alternatives to Segregation Initiative in 2015. It was through this initiative that Vera partnered with Oregon Department of Corrections (ODOC) to assess ODOC’s segregation policies and practices, analyze outcomes of that use, and provide recommendations for safely reducing the use of segregation and enhancing the use of alternative strategies.

⁷ A copy of the Vera report and recommendations can be found here: https://news.streetroots.org/sites/default/files/Final_Report_ODOC-Vera_Safe_Alternatives_to_Segregation_Initiative_Oct20....pdf. See pages 4 to 5.

⁸ Solitary confinement, or what inmates universally call “the hole,” is generally understood to be the isolation of an individual in a cell for more than 22 hours per day, especially for long periods of time. ODOC effectively imposes solitary confinement under many names that include Administrative Segregation, Cell Ins, Suicide Watch, Loss of Privileges (LOPs). See also Nat’l Comm’n on Correctional Health Care, Position Statement on Solitary Confinement (Isolation), at <https://www.nchc.org/solitary-confinement> (defining isolation).

where both staff and the individuals who are incarcerated within it are able to lead more productive and dignified lives. To that end, ODOC has participated in reciprocal visits with Norway, a country whose penal system is the envy of the world for many reasons, not the least of which is a recidivism rate that is only a fraction of what is typical in the United States and most other developed countries. ODOC's initiative to adopt at least some of the Norwegian practices is in early stages, but shows some progress according to indirect measures of effectiveness that include correctional staff wellness surveys, work absence, and staff turnover data. It is our hope that ODOC will expand this effort, but focus on more quantifiable data that capture the wellness of inmates in addition to staff.

Systemic Improvement Needed to Divert People with Mental Illness Away from Prison

DRO continues to believe that prisons are inappropriate environments for individuals with serious mental illness because they are ill-equipped to safely meet those individuals' needs. The acuity of their needs demands an environment where clinical concerns can be fully addressed in a setting suited to that purpose, including community-based options that are tailored to meet the needs of an individual. Even with improvements, prisons are ill-suited for this purpose. We hope that alternative models will be pursued by the Oregon State Legislature.

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