

August 6, 2019

TO: Senator James Manning Jr., Co-Chair
Representative Janelle Bynum, Co-Chair
The Joint Committee on Transparent Policing and Use of Force Reform
FR: Sarah Radcliffe, Disability Rights Oregon
RE: Support for a Non Law Enforcement Street Response

Disability Rights Oregon (DRO) is the designated Protection & Advocacy program for Oregon. Our mission is to promote and defend the rights of individuals with disabilities in Oregon. We are pleased to provide testimony to the Joint Committee on Transparent Policing and Use of Force Reform regarding the need for alternatives to a police response.

The “Unwanted’s”: Looking for Help, Landing in Jail

In the spring of 2019, DRO released a report that analyzed 142 Portland Police Bureau reports related to calls from Portland-area hospitals in which the primary offense was trespass: [The “Unwanted’s”: Looking for Help, Landing in Jail](#). The report documented an unnecessary and dysfunctional criminalization of marginalized people who were seeking help to meet their basic needs.

Black, Indigenous, other people of color, and people with mental health concerns were disproportionately represented among those arrested for trespass at hospitals. Only about 3% of the county’s population was estimated to be homeless at the time, but almost 75% of people arrested for trespass at hospitals were homeless. These calls almost always ended with the person in the custody of the jail, despite the fact that only a quarter appeared to present a risk of violence. A police response necessarily leads to criminalization of unmet needs.

The “Unwanted’s” presents just one sample of cases in which the police are routinely called to respond to distress related to healthcare and basic needs. The police are not the right responders in such circumstances. These circumstances call for shelter, healthcare, and resources, not a jail bed. Police uniforms, weapons, the inherent threat of force and arrest, and the profoundly painful history of recent and recurring killing of Black community members makes the mere presence of law enforcement at the scene an escalating and fear-inducing factor. No amount of training or good intentions can undo this reality.

Increasing Numbers of People with Housing and Behavioral Health Needs in the Criminal Justice System

When we make unnecessary arrests, we trigger a series of costly and harmful consequences. The number of people with the combined risk factors of homelessness and mental illness funneling into the criminal justice system has drastically increased in recent years. The number of patients ordered to the state psychiatric hospital (the Oregon State Hospital or “OSH”) because they were charged with a crime for which they are not competent to stand trial has more than doubled in the past seven years.¹ According to the state hospital’s analysis, 66% of these patients reported being homeless immediately prior to their arrest.² Criminalization is, by default, our statewide strategy to address unmet needs; utilizing the most expensive and most restrictive intervention as a short-term “fix” that only makes the long-term challenges worse.

You can’t arrest your way out of that issue – of homelessness, or behavioral health, or addiction. It just doesn’t work. Where I’ve seen the work is with an intervention, with treatment, and wrap-around services in the community. That’s where lives are changed.

Former Marion County Sheriff Jason Myers³

Unless we invest in an alternative, non-law enforcement crisis and street response, the status quo will continue to be the most harmful and least effective intervention; arrests and jail time. It is time for a street-based response that asks “how can we help?”

Solutions: Removing Law Enforcement and Creating Community-based First Responders

A solutions-oriented approach will require both ending reliance on police as the default responder to low-level issues, and creating alternative first responders.

DRO has suggested amending ORS 133.310 to narrow an officer’s authority to make a warrantless arrest if the alleged conduct is a non-person misdemeanor, which was not committed in the officer’s presence. Model legislation exists in Washington, Arkansas, and Delaware.

Disability Rights Oregon’s report, “[Oregon Jails during COVID-19: A Look Inside 29 County Jails](#)” found that on average, jails currently have nearly 50% fewer people in custody as

¹ Derek Wehr, email, 5/7/2019; the average daily population was 109 in January of 2012, and 258 in January 2019.

² Derek Wehr, email, 5/7/2019;

³ “Decriminalize Mental Illness” video, Disability Rights Oregon, https://www.youtube.com/watch?time_continue=434&v=xfLfdU8Nu9s

compared to their pre-pandemic population. This is true in both urban and rural settings. Removing police from the role of responding to and arresting people on low-level charges that do not present a public safety risk is an important step towards lasting progress in downsizing our jail populations.

Through expanding the footprint of a CAHOOTS-model, non-law enforcement response, Oregon can replace the limited tools available to law enforcement with a proactive, solutions-oriented approach to people in need in our communities. A non-law enforcement street/crisis response should incorporate the following core programmatic principles:

1. Include peer support specialists who draw on lived experience in order to establish trust and credibility;
2. Provide culturally competent services and ensure language access;
3. Incorporate a harm reduction philosophy (providing the services or interventions that the individual is willing to accept);
4. Adequate resources to respond to low acuity calls (vs. being limited to responding alongside law enforcement to high intensity situations);
5. Dedicate bandwidth to establishing a relationship of trust and mutuality with marginalized communities.

Case Study from the “Unwants”

“Betty”

Around 10 p.m. on a fall night in 2018, the Portland Police Bureau received a call from Legacy Good Samaritan Hospital for “an unwanted woman.” An officer responded to the call around midnight, and hospital staff directed him to a woman in the waiting area who, they reported, had no medical need to be there, and refused to leave.

The police report describes “Betty” as 76 years old, partially blind, experiencing pain due to “lingering injuries” sustained during an assault at a homeless shelter, hardly able to walk, and “most likely suffering from the onset of Dementia.” She had been seen at the emergency department of Oregon Health & Science University earlier that day.

“Betty” admitted to refusing to leave the hospital, which would justify an arrest for trespass. But the officer was reluctant to take her to jail. He called Adult Protective Services who reported that the woman was known to them, but they could not provide a motel voucher because she had history of hoarding and property damage, which could result in county vouchers no longer being accepted by a particular motel. The officer looked into whether she could stay at the police precinct for the night. After consulting with the sergeant they “determined that the precinct lobby may be too unsafe for [her].”

The officer completed the police bureau’s “Mental Health Template” (indicating that a likely mental health condition was identified,) but none of the mental health-related techniques were used (such as de-escalation, disengagement with a plan, or delayed custody). No mental health professional responded or was present at the scene. Instead, this 76-year-old woman with multiple disabilities and health problems, was arrested, and booked at the Multnomah County jail.