

DRO Opinion & Order: Marion County Case Data

Internal briefing data – Marion County District Attorney's Office

Background

In June 2026 the longstanding federal litigation over Oregon's system for restoring criminal defendants to competency so they can stand trial further limited the population that can attend the state hospital. Under *Mink-Bowman* a permanent injunction has been in place governing the timely provisions of competency restoration services to individuals detained in Oregon jails. OSH and OHA have largely been out of compliance. In this recent order the Court imposed new limitations on who may be admitted to OSH for competency restoration.

	Previous rule	June 2026 federal order
Non-person level C felonies	Any defendant found unable to aid and assist with a felony charge was eligible for OSH admission.	OSH may no longer admit defendants charged with non-person level C felonies carrying a sentence of 90 days or less.
Specific charge categories	Defendants charged with Theft I, Burglary 2, Disorderly Conduct I, and others could be ordered to OSH. All person misdemeanors could be ordered to OSH.	OSH may no longer admit pretrial detainees held on ten specific charge categories, including Disorderly Conduct I, Theft I, Burglary 2, Resisting Arrest, Identity Theft, Mail Theft, and Failure to Appear I.
30-day discharge extension	Available to all defendants at the end of the maximum restoration period. Provided a 30-day grace period for discharge planning and community transition coordination.	Eliminated entirely. No discharge-planning extension is available under any circumstances.
180-day safety valve extension	Available for any violent felony. Could be granted multiple times per defendant (as allowed by statute). Required only a clinical basis for believing restoration was possible.	Limited to Measure 11 crimes only. One use per defendant — ever. Requires a recent clinical opinion supporting a substantial likelihood of restoration <i>within the extension.</i>

The State, as represented by the Oregon Department of Justice, declined to take a position on these new restrictions.

On June 9, 2026, the federal court extended the June 2026 order for one year despite OSH being in compliance with the *Mink* order since June 8, 2026 (according to OPB).

AFFECT OF JUNE ORDER IN MARION COUNTY

Safety valve cases by charge category

Since July 2023, when the safety valve and 30-day extension provisions were created, Marion County has sought safety valve extensions in the following categories:

Charge category	Defendants w/ extensions sought	More than 1 extension	Total cases	Example charges
BM11	13	5	15	Murder, Attempted Murder, Kidnap
*Violent felony – threaten serious physical injury	18	1	53	Unlawful Use of a Weapon, Attempted Assault 2
*Violent felony – felony sex case	4	0	15	Public Indecency, Rape in the Third Degree

Note: some charges – including Felony Assault in the Fourth Degree, Assaulting a Public Safety Officer, Criminal Mistreatment, Animal Abuse, Child Neglect, and Felon in Possession of a Firearm – do not qualify as a violent felony under the safety valve provision.

***Since July 2023, Marion County has sought safety valve extensions for 22 defendants charged with violent felonies - including Unlawful Use of a Weapon, Attempted Assault, Public Indecency, and Rape in the Third Degree - representing 68 cases and more than 150 victims. Under this order, none of them would be eligible for an extension.**

2026 order-impact outcomes

In 2026 to date, 53 defendants have been ordered to the Oregon State Hospital (OSH). Under the new federal order, 7 of those defendants would no longer be eligible for admission or further extension:

Defendants no longer eligible for OSH	Total cases	Total victims	# of property cases
7	12	10	6

2025 order-impact outcomes

If the court order were in place in 2025, of the 115 defendants ordered to the OSH, Under the new federal order, 12 of those defendants would no longer be eligible for admission or further extension:

Defendants no longer eligible for OSH	Total cases	Total victims	# of property cases
12	20	20	7

What This Means in the Coming Months

A Marion County defendant charged with stabbing the cook at a local homeless shelter will be released back into the community when his first (and now only) safety valve extension expires. Under this new order, the extension cannot be renewed, and he will be released within the next 30 days. This offender has previously been convicted in other states of property damage, menacing, assault 2, shoplifting and more.

A Salem man, charged with attacking his own parents with a knife and cleaver in their home, will be released later this year. Under this new order, once his extension expires later this year, he will be released. His criminal history includes attempting to elude a police officer.

An additional defendant, charged with robbery, rape in the 3rd degree, strangulation, assault and more will also be released later this year –again, because under this new order an additional extension is not possible. His criminal history includes criminal trespass, disorderly conduct, and unauthorized use of a vehicle, among others.

None of these individuals will have been restored to competency. None will have faced trial. And none will have been convicted of the crimes they are charged with. They will return to Marion County communities without treatment, without supervision, and without accountability.

Conclusion

Oregon needs more capacity at every level of mental health intervention, strong leadership directly responsible and tasked with this issue, and a policy shift to one that treats public safety as a partner.

Additionally, the state should, at minimum, take a position on the Federal court's imposition of more restrictive standards. Furthermore, the state should identify why, despite reportedly now being in compliance, the federal oversight remains and is increasingly restrictive in ways that negatively affect public safety.

Federal oversight continues to put communities at risk and is a disservice to the very people the plaintiff claims to champion. By taking "no position", the state now requires counties to manage this fallout.

We will continue to advocate for reforms that make federal oversight unnecessary.