

# MAINE STATE LEGISLATURE

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2021 ANNUAL REPORT





# programs

**DD Advocacy** provides legally based advocacy to individuals with intellectual and developmental disabilities who have experienced abuse, neglect, exploitation or who have been discriminated against based on their disability. The federal Protection & Advocacy for Developmental Disabilities (PADD) program can serve all eligible individuals with developmental disabilities. The State funded program, Developmental Services Advocacy (DSA), can serve only adults with intellectual disabilities or autism who are eligible to receive the State's Developmental Services.

**MH Advocacy** serves individuals who have a diagnosis or label of serious mental illness, with priority given to persons residing in facilities. In addition to the federal Protection & Advocacy for Individuals with Mental Illness (PAIMI) program, DRM also provides advocacy services to residents of Acadia Hospital and receives State funding for advocacy in Riverview and Dorothea Dix Psychiatric Centers and in the community.

**Protection and Advocacy for Voting Access (PAVA)** is a federal program that allows DRM to represent individuals who have been denied the right to vote and to increase access to the polls for people with disabilities.

**Protection and Advocacy for Individual Rights (PAIR)** serves individuals who have a disability and who are not eligible for either the PADD or PAIMI programs. PAIR focuses on civil rights violations under the Americans with Disabilities Act (ADA).

**Social Security Advocacy** serves individuals with disabilities who receive Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) and who want to work, return to work, or are working and need assistance with respect to benefits. DRM also monitors, investigates and reviews representative payees to prevent and detect financial exploitation or misuse of an individual's benefits.

**Brain Injury Advocacy** provides legally based advocacy for people who have a brain injury and who have experienced a rights violation or discrimination. The federally funded Protection and Advocacy for Traumatic Brain Injury (PATBI) program can serve both children and adults. The State Brain Injury monies supplement the federal program so that DRM can serve people who are eligible to receive brain injury services from the State of Maine.

**Protection and Advocacy for Assistive Technology (PAAT)** assists individuals with disabilities in obtaining assistive technology devices or equipment in order to live more independently, work, attend school, or meet medical needs.

**Children's Advocacy State** funds allow DRM to serve children with disabilities who are denied access to appropriate and inclusive educational services; have been subjected to restraint and seclusion in school; are seeking assistance with obtaining appropriate home and community services; or who are in a hospital or residential facility and have experienced abuse, neglect or violations of their basic rights.

**Deaf Services** provides legally based advocacy to individuals who are Deaf, late-deafened, hard of hearing and Deaf-Blind; provides technology to improve communication access; provides peer support to Maine citizens who also have developmental disabilities; and provides outreach statewide to ensure that people know about communication options and access.

**Client Assistance Program (CAP)** is a federally funded program that provides assistance and advocacy to people with disabilities receiving services under the Rehabilitation Act.

# a message from the ed

Dear Friends and Colleagues:

I am proud to present the Disability Rights Maine 2021 Annual Report; the 44th annual report of Maine's designated Protection and Advocacy organization.

These are tough times. People with disabilities lost even more access to education, employment, services and the community at large, because of the pandemic.

People who were already spending too much time alone and isolated became much more isolated, losing access to the therapies that keep them mobile and healthy, losing access to recreational and fun opportunities, not seeing friends or family for long periods of time and not getting out and about to enjoy some of the normalcy that returned to those of us with more personal autonomy.

Advocates and lawyers can assist people with tangible rights violations and blatant and provable discrimination but it sometimes feels as if we lose as much as we win these days. Our work continues to be fueled by our passion to eliminate injustice for Maine people with disabilities, but we struggle. Thirty-five years ago, when I started working here, I thought that by now I would be part of a Maine that embraces disability as a natural part of the human experience. Instead, we are creating more institutional beds. We are talking about people with labels of disability as "much harder to serve" than ever. People with disabilities are still very much segregated and away from the general public. We are still very much the "others".

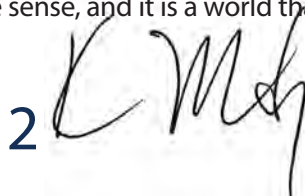
DRM will continue this fight to push for people with disabilities to be active and equal participants in all of our social and professional communities.

I'm repeating myself when I say that children with disabilities need educational experiences that encourage their unique potential, and they need access to a robust array of services that help keep them successful in their homes and in their local schools.

Adults with disabilities need higher education, employment, barrier-free access to, and inclusion in, all of our communities. Adults with disabilities or labels of disability have the same dreams as adults who have not experienced "disability."

People with disabilities are often in restrictive settings – hospitalized, institutionalized, secluded, restrained. Although these kinds of restrictive "solutions" may have served society over the years by creating a separate place for people who are different, these isolating systems do all of us a disservice. And they don't work.

Restrictions on people's rights and liberties do not make people stronger, more productive, more creative, or more independent—and putting whole groups of people in segregated settings silences them and makes them invisible. Is there another group in our society that is similarly prohibited from taking part in decisions about the design and implementation of services that are funded exclusively for them? It doesn't make sense, and it is a world that we can – and must – change.

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Disability Rights  
Maine is supported  
by funding from:

the Administration on  
Disabilities

the Center for Mental  
Health Services

the Rehabilitation Services  
Administration

the Social Security  
Administration

the Federal  
Communications  
Commission

the State of Maine

Acadia Hospital

the Maine Civil Legal  
Services Fund Commission

the Maine Health Access  
Foundation

private donors

DRM would like to thank  
the individuals, businesses  
and organizations whose  
generosity enables our  
work.

To learn how you can aid  
the work of DRM, visit  
[www.drme.org/support](http://www.drme.org/support)

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confidentiality of our  
clients, pseudonyms have  
been used.

Available in  
alternative formats  
upon request



# DRM's Community Mental Health Advocates

DRM is the class counsel in the settlement of a class action lawsuit that is commonly referred to as the AMHI Consent Decree. The history of the decree has taken many turns over the last 30 years and is still active today and Maine is still bound by its terms. Although the Decree does not require the state to fund any of the services that it describes, over the years many of these services have been included in services offered through MaineCare, Maine's version of Medicaid.

On paper, individuals in need of mental health services have a menu of services that are available to them under MaineCare. Community Integration Services (also known as mental health case management services), Assertive Community Treatment Services, and Behavioral Health Home Services are examples of available services. But access on paper does not necessarily mean access in reality. Barriers in gaining access to these services comes in many forms. For example, if a person does not have access to a

telephone, they can't "leave a call back number" when they get a recording and it is impossible for a person to exercise their rights if they don't know about them in the first place.

In the winter of 2021 DRM and the Office of Behavioral Health (OBH) entered into an agreement, as part of the AMHI Consent Decree case, to remedy this situation. As part of this process on July 1, 2021 the state changed its MaineCare rules to include a "no eject, no reject" provision for a number of services. This change meant that for a number of services, if a provider of the service wishes to terminate a client from that service or not accept a referral of a person to that service, they must first obtain authorization to do so from OBH. The agreement also included the expectation that individuals who are eligible for the state's Bridging Rental Assistance Program (BRAP) housing voucher and are being discharged from a psychiatric hospital, being released from a correctional facility, or are homeless

be awarded a voucher within an average of 14 days.

Furthermore, OBH agreed to contract with DRM to provide the services of three community advocates to reach out to individuals throughout Maine to provide them not only with information on the changes in the rules regarding access to these services, but also to provide them direct advocacy, ensuring they are aware of other rights and other services that are available to them.



Above: Brittany Ritter, J.D.

Since its inception in July of 2021 DRM's Community Advocacy Team has provided in-person outreach and training to mental health group homes, homeless shelters, peer centers, clubhouses, crisis stabilization units, and psychiatric hospitals on more than 200 occasions. During all of these outreach events, DRM is available to meet with clients in private and can offer them direct services on site. DRM also distributes information on how to contact our advocates directly after we complete outreach.

DRM strongly supports the idea that having advocates in the community is the best way to ensure that people don't "fall through the cracks". For example, during one outreach event at a Clubhouse, an advocate met a young woman who had been discharged from a psychiatric hospital to a homeless shelter six months earlier. The woman had no idea that she had a right to access a housing voucher. The advocate helped her obtain a voucher within

a few weeks and the woman moved into an apartment.

In another instance, a man was being discharged from a psychiatric hospital but he had no mental health community case management services in place. The advocate was able to connect the man with a service provider so that he had access to case management almost immediately after being discharged from the hospital.

These are just a couple of the many ways that the new DRM Community Advocacy Team will continue assisting people all over the state to access services they might otherwise not have known about or had barriers to obtaining. DRM has a Q&A on its website with informational handouts including how to directly contact our advocates.

<https://drme.org/blog/2021-11-08>



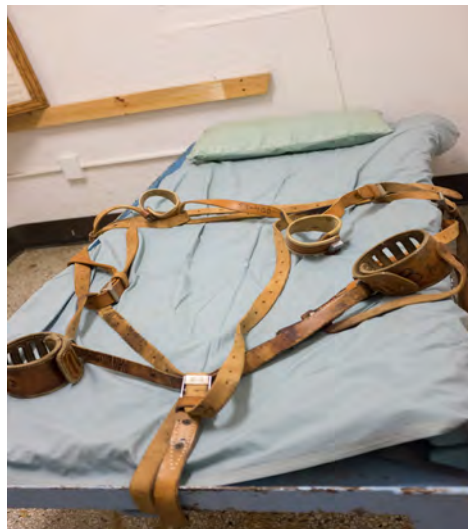
Above: Shianne Bowlin, Esq.  
Below: Carlene Mahaffey



# Ending Restraints Against Adults with Developmental Disabilities

Restraints used as a means to control behavior are far too normalized in the lives of adults with developmental disabilities (DD). The idea that it is normal to use restraints on adults with DD is so embedded in our system that acts that would be considered assault in any other context are labeled “restraint” and condoned instead of criminalized. Restraints can be prolonged, some lasting ten minutes or more and may require multiple people to hold the person down, and can result in dire consequences to the person being held down.

In addition to the significant risk of physical injury or death, restraints also subject adults with developmental disabilities to repeated re-traumatization. Too often supporters rely on physical interventions rather than addressing the underlying causes of the “behavior.” The underlying causes frequently include unaddressed communication needs, the lack of coping and self-regulation skills, past trauma, and



undetected medical issues and/or pain.

What’s more, adults with developmental disabilities are the only people in Maine subject to the planned use of restraints in non-emergency situations. Planned restraints are not permitted in psychiatric facilities, schools, or by service providers of individuals with acquired brain injury. Frequently, these planned non-emergency restraints are deployed as part of a behavior management plan. Despite being used on people with DD for behavior management, restraints have no therapeutic value and there is no evidence that they

lead to decreases in challenging behaviors.

DRM’s Developmental Disabilities (DD) team has developed a years-long project to eliminate the ineffective and abusive use of restraints against people with developmental disabilities. The elimination of restraints is incorporated into all of the DD team’s work, from supporting self-advocates in sharing their stories of their experience with being restrained or watching their friends being restrained, to educating policymakers about the harm restraints cause, to individual case work advocating to prevent, reduce, and eliminate the use of restraints against our clients, to advocating against restraints at review committee meetings, to responding to rights violation reportable events we receive through the state system.

At a Review Team meeting, DRM successfully advocated for ending a behavior management plan that permitted the use of planned restraints. Despite the provider’s



insistence that the plan was still necessary, the data they submitted showed that the individual had met the discontinuation criteria for ending the plan. After the DRM advocate raised this issue, the Maine Department of Health and Human Services (DHHS) and Maine Developmental Services Oversight and Advisory Board (OAB) representative voted to discontinue the plan.

This year DRM, along with the Maine Developmental Disabilities Council, Speaking Up For Us (SUFU), the Autism Society of Maine, Maine Parent Federation, and other self-advocates, formed the Coalition Against Adult Restraint (CAAR) to advocate for systemic elimination of restraints against adults with developmental disabilities. In addition, DRM spoke with representatives from other states who have shifted away, or explicitly prohibited (Kentucky), the use of planned restraints and connected the Office of Aging and Disability Services (OADS) with the Center for START Services based

in New Hampshire. As a result of a meeting convened by DRM, OADS contracted with the Center for a gap assessment of its system of behavioral supports in order to identify ways to shift behavior management away from restraint and other restrictive measures, and towards positive supports that will improve lives and outcomes for people with developmental disabilities. OADS also allocated \$3 million through its increased Federal Medical Assistance Percentage (FMAP) funding.

OADS held a series of three Listening Sessions to gain stakeholder input on the behavior regulations, which include the planned use of restraints. DRM worked diligently with CAAR, SUFU, and other self-advocates to participate in the Listening Sessions by sharing oral and written testimony. Much of the testimony came from the perspective of individuals who have experienced restraint and who have lived under threat of restraint. The stories that were

shared by self-advocates about the traumatizing effects of a system that permits restraint on people with disabilities were powerful. DRM also shared testimony about the detrimental effects of a system of coercion, and pointed out how the system overseen by OADS inadvertently encourages the use of restraint and other restrictive measures and away from positive supports.

DRM will continue to work with our partners to advocate against the use of restraint at every opportunity. At the same time, we will continue to educate policymakers and others about the harms of controlling behavior management practices, including restraints, and the benefits of positive behavior interventions and supports. One day, adults with developmental disabilities will no longer be subjected to repeated, regular traumatizing assaults by the people who are paid to support them.



# Communication Access: An Essential for Health Equity

Mainers who are Deaf, Deaf Blind, or Hard of Hearing, regularly experience communication barriers when accessing health care. Failures to provide sign language interpreters, telehealth appointments without captions, providers lacking awareness and training on communication needs - the barriers are widespread. Medical situations are stressful, and individuals vary greatly in their hearing levels and communication needs. Misunderstandings, seemingly minor, can have serious health consequences. When communication is compromised, patients may not disclose important details, understand a diagnosis, or fully grasp their treatment options or plan of care. As a result, Deaf, Deaf Blind, and Hard of Hearing people throughout Maine are at high-risk of receiving lower-quality care due to ineffective patient-provider communications.

Effective communication is the foundation of good health care and DRM is focused on advocating for communication access, assistive



technology, and systemic change to address health care inequities for Deaf, Deaf Blind, and Hard of Hearing Mainers. DRM prioritizes advocacy cases involving failures to provide communication access during health care. We also provide individuals with training, technical assistance, and access to technology that improves communication with providers. DRM continues to push for improved policies, practices, and awareness on a systemic level to ensure that all individuals have

access to high-quality care and health outcomes.

With help from a DRM Deaf Services advocate, a Deaf woman successfully received an American Sign Language interpreter in order to obtain needed medical equipment. She had been referred by her physician nearly two months prior, but when she requested an interpreter for her appointment, the provider said they could not provide one. Her primary language was American Sign Language; without an interpreter,

she would be unable to review training materials or understand instructions on how to use her new medical device. DRM contacted the provider to request an interpreter for her and to explain accommodation obligations. The company then provided an appointment with an interpreter, and the individual was able to receive the medical device that she needed.

DRM provided self-advocacy assistance and training for a Hard of Hearing woman who could not understand her doctor during appointments. She had started seeing a new primary care provider, but had been unable to understand him or read lips because of face masks. Although she mentioned she was hard of hearing, the provider did not slow down or check in to see if she was understanding. She was embarrassed she could not understand him, and at the end of the appointment, felt lost and anxious. DRM helped her understand her right to

request accommodations for communication access during care, including telehealth appointments. DRM also provided her with one-on-one training on how to use MaineRelay services, including those designed to provide captions during calls and videoconferences. As a result, she was able to understand appointments again using telehealth with captioning.

DRM assisted in organizing a health care forum for Deaf & Hard of Hearing Mainers for the Community Health Needs Assessment (CNHA) process. The forum provided an opportunity for individuals to directly share input with Maine health systems regarding barriers and unmet needs in health care. The Needs Assessment process takes place every three years; the Maine Center for Disease Control & Prevention, along with the four major hospital systems and Maine Health Access Foundation, review health data, hold community forums, and evaluate community health needs statewide. The DRM forum was

the first time the CHNA process specifically included Deaf & Hard of Hearing people. During the event, 20 Deaf & Hard of Hearing people came together and shared their experiences and frustrations with accessing the health care system. Forum participants overwhelmingly agreed that communication access was the single biggest health care barrier for Deaf & Hard of Hearing individuals. The input was used to develop a report on health needs across Maine's health care system.

DRM will continue to work with individuals and systems to ensure that communication needs in health care are met. Working together we can create change. Strong accessibility policies, adequate technology, and provider education and awareness are the path to health care equity for Deaf, Deaf Blind, and Hard of Hearing people in Maine.

# Freeing Our People

2021 was a big year for Britney Spears. In November, after a long and complicated legal journey, a court in Los Angeles finally ended the thirteen-year conservatorship that her father had been granted. A conservatorship, or guardianship, as it is called in Maine, is a legal arrangement that takes a person's ability to make decisions about their life, and transfers it to another person. Watching the Britney saga as it unfolded left many DRM advocates and attorneys, who frequently work with individuals on guardianship matters, wondering "how could this have happened?" Ms. Spears reported to the court that she had no say in who her attorney was, and that she had no idea that she could ask the court to end the conservatorship. When the court finally allowed her to choose her own attorney, her new attorney worked with her to file paperwork to end it, and the court finally did so. Unfortunately, it is not unusual for individuals under guardianship to have little knowledge of their rights, and this is something DRM frequently encounters. What was

so surprising to us is that Britney Spears, with her millions of fans and followers on social media, with virtually limitless financial means, with an entire #FreeBritney movement publicly urging for her conservatorship to end, had so little knowledge of her legal rights as a person under conservatorship.

Maine has a much higher rate of individuals living under guardianship than the national average. While there are no studies on why this is, it is certainly not because Maine residents with disabilities are less capable of making decisions than individuals with disabilities across the nation. Mainers under guardianship have had their rights strengthened in the last few years. In 2019, Maine updated its guardianship laws, which had not been meaningfully changed since the 1970s, to ensure that people under guardianship can challenge the guardianship, and that they have to right to an attorney if and when they do.

DRM is focused on maximizing the autonomy and self-determination

of individuals with disabilities, and that includes assisting people with guardianship matters. Our attorneys and advocates work frequently with individuals subject to guardianship to make sure they understand their rights, assist individuals with limiting or terminating existing guardianships, and help people avoid coming under guardianship altogether. Our experience in working with individuals tells us that many guardianships were put in place when the individual reached the age of eighteen, and remain in place not because they are needed, but because of sheer inertia.

In representing clients on these cases in probate courts across the state, DRM attorneys experience first-hand the obstacles that individuals experience when they attempt to end or change a guardianship. Individuals are often denied access to courts because they have been deemed to have incorrectly filled out court forms. Imagine being told by a court that you must pay fees when you do not



have access to your own money. Imagine being told by a court that you need to produce a medical form when you cannot access your own medical providers without guardian consent. DRM attorneys have helped individuals overcome these obstacles.

DRM attorneys are working with individuals on guardianship matters in dozens of cases. In one case, a DRM attorney represented a woman in her 40s seeking to end a limited guardianship. A few years prior, the attorney had helped the individual substantially limit the guardian's authority. She had done extremely well making her own decisions, and now she wanted to fully end the guardianship. The guardian, her parent, strenuously objected to the termination, despite the overwhelming evidence that guardianship was unnecessary. After a hearing, the court agreed, and immediately issued an order ending the guardianship.

In addition to individual cases, DRM is committed to addressing

systemic obstacles that pipeline individuals with disabilities into guardianship and keep them there. DRM attorneys created and presented a training titled "Restoration of Rights of Individuals Subject to Adult Guardianship." DRM hopes to expand this training in order to present it to the larger legal community in Maine in order to encourage a greater number of members of the private bar to work on these types of cases. In addition, DRM continues to work with OADS concerning individual and systemic issues that we encounter regarding people subject to public guardianship. DRM also conceived of a piece of legislation (LD 1774) which explicitly retains the right of individuals under guardianship to privately consult with attorneys and advocates without interference from their guardians.

Looking to the future, DRM hopes to continue to educate the public on less restrictive alternatives to guardianship, and to work with

individuals subject to guardianship on restoring their rights.

DRM also intends to work with probate courts on issues that serve as obstacles to court access for individuals under guardianship, and to seek more consistency in how probate courts in different counties address the issue.

Most importantly, DRM will continue to seek to ensure that individuals subject to guardianship understand the rights they retain even when they are under guardianship, including the right to seek termination of the guardianship in court, and have an attorney to help them do so. If Britney Spears had known that she had this right, her guardianship would likely not have lasted quite so long.

# DRM Litigates to Secure Accessible Absentee Ballots

Until 2020, people with print disabilities, those who are unable to access printed material in a standard way, could not vote independently using Maine's absentee ballot process. Although this problem existed for decades, the onset of the COVID-19 pandemic during the 2020 election cycle brought the issue to the forefront.

In June 2020, four registered Maine voters who are blind and wanted to vote by absentee ballot could not. Three of the plaintiffs did not cast a vote in the primary election because the system was inaccessible to them, while the fourth was forced to give up her privacy and have someone mark the ballot for her. What the town clerks told them went against the urging of both the Governor and Secretary of State.

Maine's Governor, like governors across the country, expanded the state's absentee ballot program to help ensure that Mainers could vote safely and independently from their homes. Maine's Secretary of State

called absentee voting "the safest option" for voting. The U.S. Centers for Disease Control also encouraged absentee voting.

Those four individuals turned to DRM for legal assistance. In July 2020, then Disability Rights Maine Senior Attorney Kristin Aiello, filed a complaint and motion for emergency relief in Federal Court challenging Maine's absentee ballot process so that the plaintiffs, and others similarly impacted, could vote independently and safely in the November election.

It was clear that Maine's absentee ballot system violated Title II of the Americans with Disabilities Act (ADA), which guarantees, among other things, that voters with disabilities have the same right to

vote privately and independently as everyone else. Maine's absentee ballot system also violated the Maine Constitution which says: "[T]he right of secret voting shall be preserved."

Following a conference with the federal court, Maine's Secretary of State proposed to develop and implement a new accessible absentee balloting system and to make its website accessible so people with print disabilities could request an electronic absentee ballot, mark the ballot and return it electronically to the Secretary of State. Because this was an entirely new system that needed to be developed and tested in just three months, there were challenges that needed to be overcome. The



plaintiffs agreed to be testers.

Following the State's agreement to create a new, accessible absentee ballot system, DRM reached out to Maine native, and former Deputy Assistant Attorney General in the U.S. Department of Justice's Civil Rights Division, now in private practice, Eve Hill, who had litigated similar cases across the country. We were thrilled to have her join our team.

Much was learned from the development of an accessible absentee ballot system for 2020. The plaintiffs concluded that the system, using ballots that were in PDF format, was clumsy and cumbersome. Despite this, people with print disabilities were, for the most part, able to cast their vote from home. And, more importantly, they voted privately and independently. Recognizing the need for improvement, the Secretary of State agreed to develop an HTML-based system before the next state election that occurs on or after July 1, 2021. Importantly, the Secretary



of State also agreed to notify all municipalities that the State will create accessible local ballots upon request.

As part of the 2020 case, DRM also sued the four municipalities that denied our clients their requested accommodation. These municipalities agreed to also use the accessible absentee ballot system for their 2020 ballots. However, the more than 450 other cities, towns and plantations were not parties to the case, so the settlement did not apply to them. The municipalities are required to make absentee ballots

available to Maine citizens with print disabilities in all elections, including municipal only elections, under the ADA.

DRM continues to work to ensure that all people with disabilities, including those with print disabilities, are able to participate in the election process. And we continue to advocate that people are afforded the same accessible opportunities in their local elections. As part of this effort, DRM wants to hear from you if you have been denied the opportunity to vote in your local election.



# Less is Not More: The Discriminatory Practice of Shortened School Days

All across Maine, students with disabilities are bearing the brunt of the effects from the COVID-19 pandemic. When schools shifted to hybrid schedules during the 2020-2021 school year, students with disabilities who needed in-person instruction to access their education were often an afterthought. Now, we are seeing a surge in school districts permanently shortening the school day of students with disabilities, often using remote learning as an informal removal from school. In almost all of these cases, the students need positive behavior supports and the school district is failing to provide them.

The practice of shortening school days existed well before the pandemic – DRM regularly received calls from families. Across the two school years leading up to March 2020 COVID-19 closures, more than 50 families called for help with students whose school days were reduced for disability-related behaviors. And now, during just the 2021-2022 school year, DRM heard from 55 families – double the rate

per year before March 2020.

The outcome is simple – less education. But the ways schools force a student into a shortened day can take many forms, including: using the IEP team process to unilaterally propose a shortened day, keeping a student out of school while they wait for a specialty program, placing a student on two hours of tutoring per day in lieu of formal discipline, or sending the student home an hour early everyday due to disability-related behaviors.

DRM is committed to ending the

practice of providing students less school when they need more. This practice is illegal, harmful, and should be stopped. All students should be provided the basic provision of a full school day and DRM prioritizes these cases for representation.

DRM successfully enforced the rights of a teenage student with mental health diagnoses, securing her return to a full school day in person with appropriate mental health supports and access to the regular education classroom. The student had been removed from





resources on the inappropriate use of shortened school days and the requirement to provide positive behavior supports, families successfully advocate for full school days through the IEP process. DRM provided direct support to dozens of families this year that led to students returning to the classroom.

For more information on DRM's advocacy for children, please visit: <http://drme.org/children>

school for weeks and provided just a few hours of remote learning per day while her classmates attended all day, every day in person. DRM represented the student in filing a complaint against the school district and negotiated the student's return to school with appropriate supports along with compensatory education for her lost education.

DRM advocated successfully for a teenage student who experiences autism to return to a full school day. The school district did not have appropriate staffing

and asked the student to stay home, then unilaterally changed his school day to just 3 hours. DRM provided the student with information on his rights and advocated through the IEP process to secure his return to a full school day along with extra services over the summer.

To further address this issue, DRM is tracking these cases, raising our concerns to the Maine Department of Education, and providing training to families and advocates. By empowering parents and students with information and

# The Rights of Maine Prisoners with Psychiatric Labels

Individuals with disabilities, including psychiatric labels, are disproportionately represented in the correctional system. In 2021, the Department of Justice's Bureau of Justice Statistics released the results of its 2016 survey of prison inmates, which showed that nearly 2 in 5 inmates reported having a disability. In contrast, only 15% of all U.S. adults report having a disability. That means that individuals in state and federal custody were roughly two and a half times more likely to report having a disability than individuals in the general U.S. adult population. According to this same report, 23% reported cognitive disabilities, 12% mobility disabilities and 11% vision disabilities.<sup>1</sup>

Disability Rights Maine receives complaints from residents of jails and prisons regarding disability related issues. While incarcerated, individuals with disabilities are challenged by barriers to access and communication, which at times leads to negative consequences within the facility. People with

psychiatric disabilities often struggle with the strict and regimented rules of incarceration. They may exhibit behaviors directly related to their disability and the response, at times, is discipline. That discipline might include increasingly restrictive environments, up to segregation from the general population. While the Maine state prison system has a mental health unit, not all prisoners with mental health conditions or other disabilities meet the criteria for that unit. But, no matter what the reasons are for incarceration those who find themselves in a jail or prison still have the rights afforded them under Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.

In an attempt to resolve one offender's complaint, a DRM attorney reviewed the prison records and became aware of the practice that requests for accommodations ended up in medical "sick call" and did not

make it to proper prison officials for the purposes of responding. This approach for handling requests for reasonable accommodation did not provide the person with a psychiatric disability the opportunity to participate in an interactive process with prison officials envisioned by the ADA to reach agreement on how best to provide access to programs and services. Around the same time DRM was forwarded two letters received by Maine's Department of Health and Human Services which were written by offenders with disability related complaints. As a result of both the records review and the letters, DRM reached out to the Maine Department of Corrections (MDOC) administration, who willingly agreed to meet to discuss disability issues in their facilities.

DRM advocacy first resulted in the MDOC appointing a statewide ADA coordinator, as well as coordinators at each correctional facility. The state ADA coordinator manages

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1 <https://bjs.ojp.gov/content/pub/pdf/drpspi16st.pdf>



the ADA process statewide and the named prison officials at each facility are designated to assist individuals with disabilities if they have disability related issues and/or wish to file a request for a reasonable accommodation. DRM provided samples of posters and notices used in corrections facilities in other states. MDOC has updated their notifications around the prison facilities to include the contact information for the facility ADA coordinators and the statewide ADA coordinator.

Further, DRM provided MDOC with training opportunities from organizations that specifically train state officials on the ADA process. As a result, MDOC is working to incorporate some of those organizations' training materials into their regular training cycle. DRM has also drafted a notice for those inmates who write DRM for assistance containing the name and contact information for the MDOC statewide ADA/504 Coordinator.

After the systemic work above,

DRM was again forwarded letters from DHHS and thus connected them with the MDOC statewide coordinator to investigate the inmate complaints. Going forward, DRM will work with MDOC to solidify the process by which inmates can request accommodations related to their disabilities and file complaints if they believe they have wrongly been denied an accommodation. Further the MDOC requested regular meetings with DRM to review issues, give updates on their progress and identify where opportunities for further improvement may be. At the same time, DRM continues to monitor those facilities in person and through our intake process for those incarcerated individuals who may need accommodations for their disability. While the ultimate goal is to reduce the population of those with disabilities who are incarcerated, those who are currently in our prison system should have all the protections they are due under the ADA.



# our clients

DRM provided direct representation to 961 clients for 1159 cases. DRM's equipment distribution programs served an additional 230 clients, while information and referral services were provided to 1663 individuals.

## Client Age

4 and under	3
5 to 12	74
13 to 18	86
19 to 25	145
26 to 64	571
65 and over	82

## Client Disability

Blindness/Visual Impairment	15
Brain Injury	47
Deafness/Hard of Hearing	65
Developmental Disability	585
Mental Illness	184
Physical Disability, Health Impairment, Chronic Illness	65

## Clients by County

Androscoggin	98
Aroostook	49
Cumberland	219
Franklin	13
Hancock	12
Kennebec	121
Knox	16
Lincoln	19
Oxford	35
Penobscot	165
Piscataquis	16
Sagadahoc	21
Somerset	39
Waldo	23
Washington	14
York	93
Out-of-State	8

## Case Problem Area

Abuse/Neglect & Other Rights Violations	442
Community Integration	273
Due Process	17
Education	101
Employment	64
Government Services & Public Accommodations	132
Guardianship	64
Housing	18
Vocational Rehabilitation	41
Voting	7

# financial summary

Year Ending September 30, 2021

## REVENUE AND SUPPORT

Federal Grants	\$1,324,659
State Grants	\$1,580,344
Contributions	\$10,000
Other Revenue	\$471,776
<b>TOTAL REVENUE</b>	<b>\$3,386,779</b>

## EXPENSES

PADD	\$467,731
PAIMI	\$300,301
PAIR	\$103,280
PAAT	\$36,742
PABSS	\$98,097
PABRP	\$93,342
PATBI	\$44,018
PAVA	\$68,164
Client Assistance Program	\$115,964
EA	\$111,630
Psychiatric Ctr Adv	\$216,486
Maine Civil Legal Svs	\$14,564
Acadia	\$57,757
Developmental Svc Adv	\$551,107
Deaf Advocacy +	
Comm Access Prog	\$585,928
Supporting Services	\$417,265
<b>TOTAL EXPENSES</b>	<b>\$3,282,376</b>

## 2021 board of directors

Simonne Maline, President  
Amy Phalon, Esq., Vice President  
Andrew R. Sarapas, Esq. Secretary  
Richard O'Meara, Esq., Treasurer  
Karen Farber  
Eric McVay  
William Norbert, Esq.  
Tracy Silverman  
Louise Merriman

## PAIMI advisory council

April Kerr  
Simonne Maline  
Melissa Caswell  
Vickie Morgan  
Jeffrey Kerr  
Vickie McCarty  
Kate McLinn, PhD  
Kelly Staples  
Gidget Murphy  
Miyabi "Abbie" Yamamoto, PhD  
Korali Day  
Jenny McCarthy

## DRM staff

Clayton Adams, Esq.  
Riley Albair, Program Director  
Michelle Ames, Program Director  
Caleb Baker, J.D.  
Debra Bare-Rogers, Advocate  
Shianne Bowlin, Esq.  
Bridget Campbell, Advocate  
Margaret Cardoza, Community Outreach  
Maureen Chick, Finance  
Staci Converse, Esq., DD Director  
Shannon Crocker, Chief Financial Officer  
Lucas Cuéllar, Esq.  
Tammy Cunningham, Paralegal  
Julia Endicott, Advocate  
Casey Escobar, J.D.  
Jared Escobar, J.D.  
Jessica Gammon, Health Communicator  
Mary Green, Advocate  
Benjamin Jones, Esq.  
Mark Joyce, Esq., MH Director  
Linda Leighton, Administrative Assistant  
Barrett Littlefield, Esq.  
Carlene Mahaffey, Advocate

Irene Mailhot, Community Outreach  
Matthew Main, Esq.  
Robert Martin, Advocate  
Courtney Michalec, Esq.  
Thomas Minch, Advocate  
Erik Monty, Operations Director  
Kim Moody, Executive Director  
Jane Moore, J.D.  
Scott Murray, Deaf-Blind Program Coordinator  
Mary Myshrall, Advocate  
Fernand Nadeau, Information & Referral Coordinator  
Lisa Penney, Advocate  
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Megan Salvin, Esq.  
Susan Schroeder, Administrative Assistant  
Sara Squires, Public Policy Director  
Denise Tuggle, Advocate  
Kevin Voyvodich, Esq.  
Keenan Weischedel, Advocate  
Lauren Wille, Esq.



# DISABILITY RIGHTS MAINE

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## our mission

Disability Rights Maine (DRM) is Maine's Protection & Advocacy agency for people with disabilities. This means we represent people whose rights have been violated or who have been discriminated against based on their disability. We also provide training on rights and self-advocacy and we advocate for public policy reform.

Our mission is to ensure autonomy, inclusion, equality, and access for people with disabilities in Maine.

DRM Board and staff believe that people with disabilities must:

- Be free from abuse;
- Control the decisions that affect their lives;
- Receive the services and supports necessary to live independently;
- Have the opportunity to work and contribute to society;
- Have equal access to the same opportunities afforded all other members of society; and
- Fully participate in all aspects of society: education, work, and community.

Please consider donating to support us in this mission. Donations accepted at our website.

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800.452.1948 (Toll-Free)  
207.621.1419 (Fax)

1 Mackworth Island, Bldg C  
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